

October 14, 2008



**TRANSCRIPT**  
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**MONTGOMERY COUNTY COUNCIL**

**PRESENT**

Councilmember Michael Knapp, President  
Councilmember Phil Andrews  
Councilmember Roger Berliner  
Councilmember Marc Elrich  
Councilmember Valerie Ervin  
Councilmember Nancy Floreen  
Councilmember George Leventhal  
Councilmember Donald Praisner  
Councilmember Duchy Trachtenberg



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1 MICHAEL KNAPP: All right, good morning everyone.

2 Welcome to the County Council.

3 It's Tuesday, October 14th.

4 We begin our session this morning with an invocation by the Reverend Monsignor Ralph  
5 Kuehner from Saint Francis Assisi Catholic Church in Derwood.

6 I would ask everyone to please rise.

7 RALPH KUEHNER: God of everlasting love, we ask your blessings today on the members  
8 of the Council of Montgomery County.

9 May they always remember that the political leaders are the ones responsible for  
10 promoting justice.

11 Help all of us to realize that a fundamental moral measure of any community is how the  
12 poor and vulnerable are treated.

13 Therefore, may the members of the council have this special concern for the poor and the  
14 needy, the homeless, the victims of discrimination.

15 My prayer this morning is that the members of the County Council will understand what  
16 must be done to promote true justice in our community for every person, and then have  
17 the courage to do what is necessary.

18 May the loving God of us all be with you.

19 MICHAEL KNAPP: Okay.

20 We now turn to a presentation by Councilmember Leventhal, proclamation and  
21 recognition of October 15th as White Cane Safety Day in Montgomery County.

22 Mr. Leventhal?

23 GEORGE LEVENTHAL: Good morning.

24 I'm joined by Deborah Brown and Chiku Oguledo who are active with the National  
25 Federation of the Blind.

26 And the National Federation of the Blind promotes White Cane Safety Day which occurs  
27 at this time each year, and we have a proclamation acknowledging this very important day  
28 and I'm reading it now; "Whereas the White Cane which every blind resident of our County  
29 has a right to carry demonstrates and symbolizes the ability to achieve a full and  
30 independent life and the capacity to work productively in competitive employment, and  
31 whereas the White Cane, by allowing every blind person to move freely and safely from  
32 place to place; makes it possible for the blind to fully participate in and contribute to our  
33 society.

34 And whereas during this time, the public is reminded that persons carrying a white cane or  
35 using a guide dog are legally blind and have equal rights under law to housing, lodging,  
36 amusement and public transportation.

37 And whereas motorists should remember that the law requires drivers to exercise  
38 particular care when approaching a blind person carrying a white cane.

39 And whereas it is also appropriate at this time to remind employers that when blind  
40 persons receive proper instruction and genuine opportunity, they can compete on equal  
41 terms with sighted persons and are in fact employed within the broad spectrum of labor



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1 and many professions therefore, be it resolved that the Montgomery County Council  
2 proclaims today October, well, not today but October 15, when we get there, 2008 as  
3 "White Cane Safety Day" in Montgomery County and commends the efforts of the  
4 National Federation of the Blind in its 67th year presented today the 14th day of October,  
5 October 2008 and signed by Michael Knapp, Council President.

6 DEBORAH BROWN: Thank you.

7 GEORGE LEVENTHAL: All right, Deborah, we'll move the microphone here and you can  
8 be heard right now if you'd like to begin now.

9 DEBORAH BROWN: Okay.

10 All right.

11 Well, thank you, Councilman Leventhal.

12 And they celebrate a lot of things in October.

13 It seems to be the month everybody likes to have; they celebrate Disability Employment  
14 Awareness Month, and in Montgomery County, we do a lot of pedestrian safety activities.  
15 And usually, we had Councilmember Marilyn Praisner used to do this, and so we  
16 remember her when we do this.

17 So, I appreciate this, the Montgomery County and their concern in making this issue  
18 public every year and thank you very much for proclaiming White Cane Safety Day.

19 Thank you.

20 GEORGE LEVENTHAL: Thank you, Deborah.

21 Chiku, do you want to make any remarks?

22 DEBORAH BROWN: All right.

23 Thank you.

24 All right.

25 Thank you.

26 Okay.

27 Okay, thank you.

28 We're finished.

29 CHIKU OGULEDO: We're finished?

30 LEVENTHAL: Okay, Chiku, thank you very much.

31 DEBORAH BROWN: Thank you.

32 GEORGE LEVENTHAL: Glad to have you both with us.

33 MICHAEL KNAPP: Thank you very much.

34 We now turn to general business.

35 Ms. Lauer any agenda and calendar changes?

36 LINDA LAUER: Good morning.

37 The minutes of September 23rd, we're going to defer those so we'll bring them back to  
38 you next week.

39 Consent calendar, we're adding action resolution to extend the deadline until January 15th  
40 for the executive to submit a regulation for Speed Hump Program.



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1 We received a petition this week opposing Bill 25-08, the Emergency Medical Service  
2 Transport Fee.  
3 MICHAEL KNAPP: Okay.  
4 LINDA LAUER: Thank you.  
5 MICHAEL KNAPP: I'm sure that the T&E Committee looks forward to the discussion of the  
6 speed hump regulations.  
7 That will be good.  
8 Since we have no minutes.  
9 .  
10 .  
11 NANCY FLOREEN: Why not?  
12 MICHAEL KNAPP: Perhaps we can lump that in with the taxicab legislations that you're  
13 considering now.  
14 NANCY FLOREEN: It's all right.  
15 MICHAEL KNAPP: It would be a fun day.  
16 It would be a fun day.  
17 Okay.  
18 Go for the trifecta?  
19 Road code, speed humps and taxicabs.  
20 NANCY FLOREEN: No problem.  
21 MICHAEL KNAPP: Anyone want to join the T&E Committee?  
22 Okay, we have before us the consent calendars.  
23 Is there a motion?  
24 ROGER BERLINER: Before we go there, could I move to strike an item?  
25 MICHAEL KNAPP: Let's put it on the table first.  
26 NANCY FLOREEN: I move to approve the consent calendar.  
27 MICHAEL KNAPP: Is there a second?  
28 GEORGE LEVENTAHAL: Second.  
29 MICHAEL KNAPP: Moved by Councilmember Floreen; seconded by Councilmember  
30 Leventhal.  
31 Any discussion on the consent calendar?  
32 Councilmember Berliner?  
33 ROGER BERLINER: I would like to ask that action item A be taken off the consent item so  
34 we can have a separate vote on it?  
35 MICHAEL KNAPP: Objection?  
36 Okay.  
37 Further discussion on the consent calendar?  
38 Okay, I see no further discussion.  
39 All in support of the consent calendar indicate by raising your hand.  
40 That is unanimous among those present.  
41 We--let me see.



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1 When is the appropriate time to move to the--all right.  
2 We'll move to action on item A which is resolution recommending County Executive  
3 accept certain arts or entertainment space in the Silver Spring Arts and Entertainment  
4 District.  
5 Is there a motion?  
6 NANCY FLOREEN: I so move.  
7 GEORGE LEVENTAHAL: Second.  
8 MICHAEL KNAPP: Moved by Council Floreen, seconded by Council Leventhal.  
9 Is there a discussion on that resolution?  
10 I see none.  
11 All in support of the resolution indicate by raising your hand.  
12 Council Leventhal, Councilmember Ervin, Councilmember Praisner, Councilmember  
13 Trachtenberg, Councilmember Floreen, Council vice president Andrews and myself.  
14 Those opposed?  
15 Councilmember Berliner and Councilmember Elrich.  
16 That is seven to two, the motion carries.  
17 Okay, very good.  
18 We now turn to district council session.  
19 We have a first introduction resolution to approve use of Advance Land Acquisition  
20 Revolving Fund for acquisition of real property.  
21 I guess its name is Toll MD II, LLC Property action tentatively schedule for October 21st.  
22 That is now introduced.  
23 Now we have action resolution to extend time until December 19th, 2008 for council action  
24 on an amendment to the master plan for historic preservation, Damascus-Goshen  
25 Resources.  
26 We have six votes needed for that.  
27 I actually have a question on that.  
28 I'm not sure.  
29 We lost our staff member.  
30 I think I need Mr. Faden or Mr. Zyontz.  
31 Who do we have who can talk about the master plan for historic preservation?  
32 Okay, anyway, I have a question there that I would like to get clarified.  
33 I've been approached about making a modification to one of the historic districts that we  
34 have and I don't know if it's actually appropriate for the council to initiate an amendment,  
35 and I was just curious as to what the process would be so we get that reported back for,  
36 when it comes back to committee.  
37 I don't know if.  
38 .  
39 .  
40 MICHAEL FADEN: I am hesitant to speak because I don't know all the details.  
41 MICHAEL KNAPP: Okay.



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1 MICHAEL FADEN: And I think if you want to talk about the specifics, it may depend on  
2 where the property is located.  
3 MICHAEL KNAPP: Okay.  
4 But if we could get information on that as to whether the Council can initiate an action or  
5 we just have respond to whatever the Historic--HPC and the Planning Board send over to  
6 us.  
7 MICHAEL FADEN: In general, you respond to what the Planning Board sends.  
8 MICHAEL KNAPP: Okay.  
9 All right.  
10 MICHAEL FADEN: But if there's an area, you can fill in the holes in that area as it were.  
11 MICHAEL KNAPP: Okay.  
12 Or can we lessen that area?  
13 MICHAEL FADEN: Probably.  
14 MICHAEL KNAPP: Okay.  
15 All right.  
16 I will look forward to that.  
17 Okay, Councilmember Floreen?  
18 NANCY FLOREEN: Oh, yes.  
19 So, we'll take this up in the committee.  
20 I've been talking to folks about this and there are some with some considerable concerns,  
21 not the least of which is the nature of the notice that was provided.  
22 I would ask that we request that we ask the Historic Preservation Commission to provide  
23 us with copies of the notice that went to property owners alerting them to the designation  
24 process.  
25 MICHAEL KNAPP: I would just note as it relates to Damascus-Goshen plan; the reason  
26 actually we have to extend it is because when they came before the committee, we sent  
27 them back to redo the notice.  
28 And so, I agreed.  
29 So, I think it's important for us to get some sense as to how that notice and outreach went  
30 with all of those property owners.  
31 Not just those who were opposed but actually all the property owners.  
32 NANCY FLOREEN: Those who were listed are supporting.  
33 Well, I just like to know with the official notice and see copies of said notice.  
34 JEFF ZYONTZ: Again, what was done most recently wasn't official notice.  
35 It was at the request of the committee to.  
36 .  
37 .  
38 NANCY FLOREEN: Well, I am looking for the Historic part.  
39 JEFF ZYONTZ: That notified everyone.  
40 NANCY FLOREEN: Yeah.



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1 JEFF ZYONTZ: And we notified everybody who was being recommended for designation  
2 whether or not they showed opposition before.

3 NANCY FLOREEN: Good.

4 Thank you.

5 MICHAEL KNAPP: Okay?

6 Any further discussion on that?

7 Other than that, we actually need to take a vote.

8 So, all in support of extending the time until December 19th, 2008 for the Council act on  
9 the amendment to the master plan for historic preservation, please indicate by raising your  
10 hand.

11 That is unanimous.

12 We have the six votes required.

13 Okay, we now turn to action on the following.

14 We have our first two items which are resolution to terminate the Clarksburg Town Center  
15 Development District and resolution to declare council intent regarding proposed  
16 Clarksburg village and Clarksburg Skylark Development Districts.

17 I would start since it was--I was the sponsor, at least a sponsor for both of those  
18 resolutions just by providing a little bit of context.

19 As I think everyone was or is aware, there have been lots of issues as related to the  
20 development of Clarksburg over the last four years.

21 Unfortunately, in 2003, their--it was interesting actually how the issues came to light.  
22 They came from kind of two different directions.

23 One, having witnessed the significant amount of growth in the Germantown community  
24 towards the latter part of the 90s and the early part of 2000, there was a significant  
25 amount of frustration on the part of the community because a lot of development had  
26 occurred and, unfortunately, there was a significant lag between that development and the  
27 infrastructure that the county was generally providing in particular.

28 The most frustration with was as related to schools.

29 There was a new development that had been formed.

30 Matsunaga was the newest elementary school.

31 And when it opened, it had over a thousand students and already had 11 portables.

32 And so, people said, "Wow!

33 That would have seemed odd that we wouldn't have known that that was going to occur  
34 that way.

35 " And so, there was another elementary school plan but it was much later in the process.  
36 So, that

37 led me to ask similar questions as it related to the development of Clarksburg.

38 And so I and a couple of others sat down with both developers and Park and Planning  
39 folks in Clarksburg in 2003 and said, "Given the ramp of growth that has occurred, where  
40 were we now relative to where we would have expected to be as it related to the number  
41 of units on the ground and the amount of infrastructure that had been provided?



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1 " And there was a blank look in everyone on the room.  
2 So people started to talking to me about what everyone's individual requirements were  
3 which is great, but no one can actually say where we're supposed to be--there was no  
4 plan.  
5 At roughly the same time, the community had started to ask questions as related to a  
6 retail center and the town center and there were a number of questions that were raised  
7 there.  
8 And what we'd hope was happening was that things were easily answerable.  
9 And so, I raised my questions with the folks in Park and Planning.  
10 I know the community raised their issues with the folks in Park and Planning, everyone in  
11 Park and Planning said, "Everything is fine."  
12 " Well, six months after everyone kind of saying things were fine, it became pretty clear  
13 that things really weren't fine.  
14 There were many, many issues as it related to the infamous height and setbacks.  
15 But actually, the bigger issue was one of implementation.  
16 It became very clear that Montgomery County hadn't really built a Greenfield community in  
17 a very, very long time.  
18 And so, no one really owned that process and was overseeing that process in a way that  
19 kind of made a lot of sense.  
20 We all just kind of assumed things were happening.  
21 And rolled into that unfortunately was the development districts, and people assumed that  
22 certain things were happening there too.  
23 And unfortunately, we found that was not necessarily the case.  
24 And so, we got to a point where after, I don't know, two years of analysis, a series of OLO  
25 reports both as it relates to the development of Clarksburg and as it related to  
26 development of districts, specifically, it became clear that there were a lot of issues and  
27 many of which needed to be rectified.  
28 We've been focusing on the planning issues and it is hopefully, fingers are crossed, on  
29 November 6th, the Planning Board is expecting to take up the site plan amendments or  
30 the plan of compliance that was part of the mediated/arbitrated settlement as a result of  
31 the community and the developer.  
32 And so, we're finally at a point after nearly four years of being able to--almost five years--  
33 of being able to move that part forward.  
34 The other part is still out there which is outstanding as it relates to the development  
35 districts.  
36 Unfortunately, there's a lot of issues that have been raised there as relates to notice, as  
37 relates to the implementation.  
38 There is a track record of development districts having worked in Montgomery County in  
39 that similar, the same area that spawned some of the questions I asked that related to  
40 Clarksburg.  
41 There was a development district in Germantown.





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1 And because of the speed with which that had been employed, it actually worked pretty  
2 well.  
3 Unfortunately, for a lot of reasons, this one didn't work the same way.  
4 It was very drawn out in its process.  
5 The notice was questionable as to how it was done.  
6 And interestingly, as a result of the OLO analysis, we have--following this action, we're  
7 going to take up a piece of legislation that will modify our development district law  
8 because it rectifies some of those problems that we discovered as a result of the  
9 implementation in Clarksburg.  
10 So, we kind of understood that there were some issues that went on the ground there.  
11 I think the challenge that we have now is we've had nearly five years of discussion on  
12 Clarksburg.  
13 More importantly, the folks who bought in to Clarksburg and moved to Clarksburg have  
14 been living kind of this nightmare.  
15 Things have moved very slowly.  
16 Many folks are still not on streets that have been officially paved.  
17 There's still dirt that has yet to be moved.  
18 There are still lots of lots of issues because everything came to a screeching halt in  
19 Clarksburg.  
20 And I think the opportunity that we have before us now is to address both the Clarksburg  
21 Town Center Development District and say, "You know what?  
22 Good idea, for a variety of reasons, it didn't work here.  
23 We didn't implement it right and it rolls into the lack of oversight that I think that we as a  
24 County, capital C, has as it's related to Clarksburg more broadly defined.  
25 " And so, I think it's important for us to recognize a time when the plan of compliance  
26 when the site plan amendments are going to move forward, that we can effectively kind of  
27 take the black cloud that has been over Clarksburg for the last five years and say, "Let's  
28 start over.  
29 " It does not mean that we don't do something as it relates to different funding sources  
30 going forward.  
31 I've had those conversations with the community, but I think to have this flawed  
32 development district, as it relates to town center, just continues to create issues.  
33 There are those who have said, "Well, the developer has put some money in.  
34 " Yes, the developer has.  
35 And I think there are ways for us to address that as it relates to impact taxes, impact of  
36 credits.  
37 There are a number of conversations I've had with the executive branch, with the  
38 developer, with our staff.  
39 Unfortunately, as long as this--the development district as proposed by the Executive sits  
40 out there, it's too easy for people to say, "Oh, but that's already out there.  
41 We don't need to resolve that.



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1 " There are a number of mechanisms for us to get there but we need to be able to  
2 eliminate this to address that.  
3 So, I think we can solve the developer's issues and so that things can move forward.  
4 The other issue that relates to the development district is the library.  
5 And I've talked to many, many, many residents in Clarksburg who say, "You know, the  
6 library is fine.  
7 We'll get one when we get one.  
8 " They're not necessarily looking to see that an accelerated pace.  
9 It would be great, but they  
10 recognize that all of the other libraries in the County have been built when the County  
11 could afford to do it and they're happy to--happy--they're okay with waiting in line until that  
12 happens as it relates to the community.  
13 And so, I think that we're at a point now as it relates to the town center where we can say,  
14 "Let's start over.  
15 We can actually do this right and do this well.  
16 Let's do that.  
17 " And that's really what prompted me to introduce the Town Center Development District  
18 Resolution.  
19 The other elements as it relates to the two proposed districts are a little more challenging  
20 because there's no action for us to take.  
21 They've been proposed, the council has not taken action to create them as development  
22 districts at this point.  
23 The problem is, there is a question as to what happens with them.  
24 Where do they go?  
25 How do they proceed?  
26 And there is also a little wrinkle with them as well, because at least in some instances, the  
27 developer, at least in one of them, has put in language in some of the papers that have  
28 been signed that the developer has the right to put in a development district on their own.  
29 So, that's--it's a little bit of a wrinkle as to what happens next there.  
30 And so, in consultation with Mr. Faden trying to understand this, it seemed as though  
31 probably the most straightforward way was for us to say, "You know what?  
32 Again, these are flawed, we have had kind of a screwy process to here, let's start over.  
33 " And so, to declare the Council's intent to no longer do those two districts.  
34 I've had meetings with many of the residents, not all of them, but a good number of them  
35 that live in those two districts to say, recognizing if we say, "We're not going to do those  
36 two," you're now potentially subject to this interaction with the developer and what they  
37 have said.  
38 And they said, "You know what?  
39 We're fine with that.  
40 We're willing to roll those dice and have, we think that we have legal recourse that we'll  
41 take and we're happy to do that on our own.



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1 " I said, "Okay.  
2 " I wanted to make sure that I looked at them and that they said that.  
3 And so, this appeared to be the direction which they would like to head.  
4 In addition, there is--I probably get, I don't know, eight to ten phone calls a month from  
5 folks looking to either buy or folks representing people who would like to buy into  
6 Clarksburg especially into these two areas saying, "What's going to happen?  
7 Do we pay more?  
8 Do we pay less?  
9 " And I said, "You know what?  
10 I really don't know.  
11 " And as a result, you have a lot of folks who would like to potentially live there who don't  
12 know if they will actually--they're willing to accept that potential financial risk.  
13 And so, I think, again, for the community, we need to try to clear that up.  
14 One of the other issues that people have raised as it relates to the two proposed districts  
15 is--and this actually is with all three.  
16 We have a situation where we have a very small area in what is the overall area of  
17 Clarksburg that says, "You're basically going to be paying this infrastructure everyone's  
18 going to be using.  
19 If you live on this side of the road, you pay.  
20 If you live on the other side of the road, well, if you're developer didn't do a district, then  
21 you aren't going to have to pay those dollars.  
22 " And looking at the equity of a community, does that make the most sense?  
23 I think that if you look at what we've done in other parts of the county with special taxing  
24 districts, I think there are ways for us to employ something more broadly for the  
25 community of Clarksburg going forward, but we have to have that as a conversation.  
26 And again, you can't have that conversation until you address the first part of this and that  
27 becomes one of the challenges.  
28 And so, the goal  
29 behind both of these is to say, "Look, we didn't get there from here folks.  
30 We had a county, or we had a community that thought we were kind of minding the store.  
31 " And we had a lot of good ideas.  
32 We had a good master plan.  
33 Practical fact of the matter was, on a lot of levels, it didn't happen because we weren't  
34 paying attention.  
35 And so now, we have the opportunity to kind of do a do-over and say, "After four and a  
36 half years of a community basically on hold, we can come up with a way to start over  
37 clean, or as clean as we can get back to.  
38 " And I think we owe it to that community to get them back to that level and to work with  
39 them to figure out how it is we help them grow to become the type of community they can  
40 be, but more importantly, the type of community--is that my bell?  
41 I'm done?



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1 My filibuster's over.  
2 The type of community that we think we have in Montgomery County.  
3 And that's the reason for putting these two resolutions on the calendar.  
4 The other piece is, unfortunately, people have asked, "Why do these have to come up?  
5 " I had hoped that they didn't, quite honestly at this point; but when we started the  
6 conversation as it related to Bill 36-07 in development districts, there was, in many  
7 people's minds, kind of a linkage because you could--as we do that, people thought that  
8 could potentially influence how the other three districts were being implemented and  
9 people were very troubled by that.  
10 And so, and a lot of the questions that the council asked even at the first work session  
11 was, "Well, how does this impact Clarksburg?  
12 " And so, I thought, to try and clarify that to say, "Here's Clarksburg.  
13 It has a set of issues, address that specifically, and then here is development districts as a  
14 further conversation, as a tool that we can amend and rectify and make better to use  
15 moving forward.  
16 " And that was kind of the objective for bringing these up today.  
17 Not there was something I thought I wanted to do, they're not necessarily linked.  
18 However, they are in the minds of many people because of the potential impacts on the  
19 proposed development districts going forward.  
20 And so, that's why we have all three of them on the agenda at the same time.  
21 And so with that, that's why it's kind of the background of where we're getting to on these  
22 two resolutions.  
23 So, I just want to see if there are any comments as it relates to the resolutions  
24 themselves?  
25 Councilmember Elrich?  
26 MARC ELRICH: I support these two resolutions.  
27 I think you made the case pretty well, but as for looking over the history of this, we're  
28 seven months--seven years and three months later, we're still deciding what belongs to  
29 the development district.  
30 And that I think in and of itself says how flawed and wrong this process is.  
31 We've gotten far too down, too far down the road to be talking  
32 about this at this point.  
33 I intend to support, in principle at least, that the bill--the new bill that's been drafted that  
34 deals with development districts in the future.  
35 I agree with Mike and I think I'll go a little bit further.  
36 I think so much of the discussion in the new bill is argued between law firms debating the  
37 fate of the old projects, and it's hard to believe that there's really the separation between  
38 the new bill and these old projects.  
39 And I was going to say also that the comments I think Mr. Faden made last time didn't  
40 make me feel any better because when I asked whether they were totally separate, it was  
41 like, well, they're separate but maybe they're not.



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1 And that's a problem to me.

2 I mean, if I had thought that the bill that was coming out of MFP would be prospective and  
3 deal only with the future; and to the extent that it's not clear that it only deals with the  
4 future, I feel it's necessary to bring closure to the existing situation.

5 I do think we should be able to do development districts.

6 I think we need to start over again.

7 And so, I will be supporting Mr. Knapp's proposal here.

8 MICHAEL KNAPP: Councilmember Berliner.

9 ROGER BERLINER: Thank you, Council president.

10 I will be supporting your resolution with respect to this matter for many of the reasons that  
11 my colleague, Councilmember Elrich, articulated.

12 I think that this was a good concept done so badly

13 that we simply cannot impose this on those who bought these homes without a clear  
14 understanding of what their obligations would be.

15 And I think it is very important that we retain this instrument for the future which is why I'm  
16 also a strong supporter of the MFP chair's language going forward that will, in fact, clean  
17 this up.

18 It does clean up the notice provision, in particular, in a way that everybody knows going  
19 forward that if you enter into this kind of arrangement, what your obligations will be but this  
20 was a mess.

21 And it was a mess for far too long and it's time to put it behind us.

22 I think in doing so, we will keep faith with our citizens.

23 The issue that I think is also important for us to address, and address with equal integrity,  
24 is those who made investments in this infrastructure predicated on the notion that they  
25 would, in fact, be paid for it.

26 And a significant investment was made.

27 So, I have worked hard and you'll see in your packet on pages circle 42 and 43, and 38  
28 and 39 to discuss the extent to which the impact tax mechanism was insufficient to make  
29 those who put in the infrastructure whole.

30 And the response was that that mechanism simply would not work because in many  
31 instances, we didn't apply for the impact taxes credits because we relied on the fact that  
32 there was going to be a development district which is certainly understandable.

33 And so, the staff has drafted an amendment that would go to Councilmember  
34 Trachtenberg's bill because that is where, as I understand it, the staff believes the  
35 amendment must go that would in fact, allow them to now apply for those credits and not  
36 be harmed or prejudiced by virtue of the fact that they hadn't applied previously; still only  
37 entitling them to that which the County Executive deems to be appropriate in terms of  
38 recovery of those fees but not harming them because, in good faith, they relied upon what  
39 they perceived to be the other vehicle which was the development district which we are  
40 now saying "No."



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1 " So, from my perspective, as long as we treat both our citizens fairly, as well as those  
2 who, in good faith and in reliance, moved forward with putting in an infrastructure, then I  
3 feel like we have done this in an even-handed manner, cleaned up the mess, but without  
4 prejudice to either our citizens or those who relied upon our past promises.  
5 So, it is not part of this resolution but it is going to be an amendment that my hope is that  
6 this council will embrace as a way to make sure that we treat everybody fairly with respect  
7 to this on a going forward basis.

8 MICHAEL KNAPP: I thank Councilmember Berliner for that because I think that's very  
9 consistent with the conversations I've had with the developers as well.  
10 I think that helps clarify that.

11 So, hopefully, we'll be okay when we address that in the next legislation.  
12 Councilmember Ervin?

13 VALERIE ERVIN: Thank you very much.

14 I really appreciate the leadership of the Council President always.

15 I think he's done a spectacular job leading this council this year.

16 And my district couldn't be further away from Clarksburg than any of the other districts in  
17 the county.

18 And I am not going to be supporting this resolution.

19 It was not an easy decision for me to come to, and the reason I am not going to support it  
20 is because it has impacts on citizens throughout Montgomery County.

21 I remember many months ago at the public hearing on this issue that I asked a question of  
22 a speaker, and I said, "What did the citizens of Clarksburg know and when did they know  
23 it?

24 " And, lo and behold, the gentleman had signed--I guess he had forgotten as well as many  
25 people in Clarksburg, and I have just a little rubber band around a portion of the pieces of  
26 paper that came to the Council that showed that the citizens of Clarksburg had signed a  
27 document, Notice of Special Taxing District documents which I found very interesting  
28 because a lot of what we've been hearing--folks said that they were not notified, that they  
29 were buying in a special taxing district.

30 So, I have some problems with that, and I also have issues regarding who will pay the bill  
31 for Clarksburg if we dissolve this special taxing district.

32 And I think that the

33 citizens in Wheaton and Silver Spring, and Takoma Park, and Kensington would have  
34 some issues with why they have to pay.

35 So, I have a couple of questions that I'd like to ask while you're at the table, Mr. Faden,  
36 about what is the tax burden going to be on other citizens in the county?

37 MICHAEL FADEN: Councilmember Ervin, the projected tax burden is shown in the  
38 Executive Fiscal Report which is I believe in both of these packets.

39 It is starting on Circle 32 of the packet for the town center district.

40 They predict, the Executive Staff- Finance Department, predict an initial rate.

41 This is near the top of circle 33 under the heading tax burden.



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1 I'm sorry, that's Village and Skylark.  
2 Let me go a couple of pages back.  
3 Circle 35 is Clarksburg Town Center.  
4 They predict with the scaled-down development district that the Executive proposed, the  
5 scaled-down infrastructure program that he submitted to you this past January, the tax--  
6 initial tax rate would result in about \$770 a year for the average single family home which  
7 he points out is one-third lower than the \$1200 a year previously projected.  
8 VALERIE ERVIN: Okay, but that's for the citizens in Clarksburg.  
9 MICHAEL FADEN: Town center.  
10 VALERIE ERVIN: In the town center.  
11 So how does that impact citizens across the county?  
12 MICHAEL FADEN: Well, I haven't done the math but if you look on Circle 37, you will see  
13 on the bottom of the table in the bottom of the page, the executives recommended  
14 development district the amount at the right hand column under the lower table, amounts  
15 to \$15 and \$15 and a half million dollars that would be partially funded elsewhere and  
16 partially funded through the CIP if the development district is not created.  
17 If it's funded through the CIP, it translates into ultimate debt service payments.  
18 But again, I have not done the precise math.  
19 VALERIE ERVIN: Okay, because I have a spreadsheet that shows the Montgomery  
20 County 2008 levy real property tax rate schedule from July 2008 through June 30th, '09.  
21 And in this spreadsheet, I found some very interesting data which I would be happy to  
22 share with people.  
23 In terms of the special service area taxes and the city of Takoma Park pays the highest  
24 municipal district tax in the county.  
25 That's in the district that I represent, as well as the town of Kensington, the town of Garrett  
26 Park.  
27 And in the middle  
28 of the chart is where--in green, I don't know if you can see this.  
29 This is where it shows the residence of Clarksburg somewhere close to the middle of the  
30 chart.  
31 So, they would not be paying the highest of the county's special district taxes.  
32 So, all along, I've been, you know, pretty diligent in listening to all sides of this argument  
33 that if we dissolve this special taxing district, I'm not quite sure how citizens of the county  
34 are going to feel about having another tax levy for reasons that I'm still not quite sure have  
35 been answered for me.  
36 So, I will reiterate that I plan to vote against this resolution.  
37 MICHAEL KNAPP: Councilmember Trachtenberg?  
38 DUCHY TRACHTENBERG: Thank you, President Knapp.  
39 I would like to start my remarks off by first of all thanking the council president for having  
40 this on the agenda.



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1 And I also want to acknowledge his unwavering support and advocacy for the community  
2 and the district that he represents.  
3 So, I want to put that right down on the table and I would note that this has been a difficult  
4 conversation and perhaps a difficult decision as well for many of us.  
5 But I do think there's been adequate conversation about the resolutions and even about  
6 the piece of legislation which was forwarded through the committee that I chair.  
7 There were a number of work sessions, a number of discussions within this full council.  
8 So I think the information is there and I do think making a decision today on both these  
9 resolutions and the bill is really appropriate.  
10 As we started the conversation about development districts quite a while ago, specifically  
11 right after the report was issued by the Office of Legislative Oversight, I spent a great deal  
12 of time working with two of my staff meeting with people from the community, and also  
13 talking with people from the development end.  
14 And I have to be very frank, it didn't take me too long to recognize that, in my mind, there  
15 really had been adequate notice.  
16 I know Councilmember Ervin referred to that item.  
17 I also--I would say within six months of having the conversation start recognize that we  
18 weren't talking about an unfair burden either.  
19 Again, I would note that there was adequate notice, in my mind, and that there certainly is  
20 not a high burden being put on any one particular community in Clarksburg, in particular.  
21 But I want to talk more about the precedent here, which is what I, from the very beginning,  
22 had much more difficulty with, and I wrestled with.  
23 And I think that at a time when we do have some of the challenges that we have,  
24 specifically in funding infrastructure that is so necessary, I think this is exactly the reason  
25 why we need to move forward with development districts as a tool, but also, we have to  
26 move forward with Clarksburg.  
27 And it would seem to me that if we were to dissolve all three of the districts in Clarksburg  
28 at this point, it would be very difficult in the future to do any kind of redevelopment where  
29 we were looking to utilize the development district tool.  
30 I mean, that's basically my bottom line.  
31 And I've been pretty clear.  
32 The last two times we've had conversations here within this council that I happen to live in  
33 an area where we're likely to be looking at development districts; clearly, White Flint,  
34 North Bethesda, none of that's going to happen, and I've even joked about that.  
35 And that no doubt had a lot of--that motivated me to a great degree to advance the  
36 reforms that I thought needed to happen around the existing law.  
37 And certainly, the OLO report gave us a road map.  
38 And I think that it's common sense to try to fix something that isn't in the best form.  
39 And I do not support either resolution this morning.  
40 I will not vote for the amendment to my bill either.





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1 I personally think that while this is all difficult, and I know there are residents in Clarksburg  
2 that are not going to be happy certainly with the vote that I take, this is about the future of  
3 Montgomery County; and development districts are going to be essential to make sure  
4 that adequate infrastructure is provided to all communities.

5 And it is for that reason that I strongly support my bill, but more importantly, I do not  
6 support either of the resolutions today before us.

7 MICHAEL KNAPP: Councilmember Elrich.

8 MARC ELRICH: I'm glad that Ms. Ervin mentions Takoma Park and municipalities and tax  
9 rates because I think there's a critical difference between the taxes we pay and what's  
10 being imposed in Clarksburg.

11 In Takoma Park or Gaithersburg or Rockville, our taxes pay for services.

12 They pay for policemen.

13 They pay for recreation programs.

14 They don't pay for the construction of the roads and the infrastructure.

15 And so, the tax burden is completely different.

16 Municipalities decide how many services they want to provide and tax themselves  
17 accordingly in different jurisdictions, make different decisions about how much of a tax  
18 burden they lay on themselves.

19 There are some municipalities that have a very low tax burden because they choose not  
20 to do anything, and there are some municipalities like Takoma Park which are full-service  
21 cities and we choose to do a lot.

22 So, to

23 compare our tax burden to the burden being imposed on Clarksburg which is simply a fee  
24 for the infrastructure that everybody else in the county enjoys as a baseline is two different  
25 things.

26 It's apples and oranges.

27 It's also my understanding that both the Council President's intent and Mr. Berliner's intent  
28 is that developers make whole out of impact fees, not that we pass this on to the residents  
29 of the rest of the county.

30 I'm not interested in passing this on to the residents of the rest of the county.

31 I'm interested in paying this back through the impact fees that developers paid.

32 And I'm more than willing to re-look at the way the application process went and--because  
33 I think, fundamentally, that they should get their impact taxes back in this case.

34 It seems to me that, you know, one of the complaints they have, developing community  
35 makes consistently is they pay impact taxes and they wind up in other places and not on  
36 the projects that they're actually--in the neighborhoods where they're doing the  
37 development.

38 This case, I think, is, you know, a good example of why they ought to get credit against  
39 impact fees for the work they've done within the district.

40 And if we do that and they wind up whole or close to whole, there is not going to be a  
41 burden on the taxpayers on Montgomery County, the people in our district.



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1 So, I think we can avoid the thing you worried about.  
2 And I think in terms of judging the fairness of this, this is actually incredibly unfair.  
3 This would be like going back and assessing everybody in Montgomery County for the  
4 streets in front of their houses and saying, "Now, I want you to pay for it."  
5 "I just think this is the wrong way to go."  
6 MICHAEL KNAPP: Councilmember Leventhal.  
7 GEORGE LEVENTHAL: Elected officials have a special responsibility particularly when  
8 times are very challenging and very difficult.  
9 We have a responsibility to show that we understand what's going on in the communities  
10 that we represent.  
11 I think Mr. Knapp's resolutions recognize the challenges that are facing homeowners in  
12 Clarksburg right now.  
13 My thoughts are with the homeowners in Clarksburg right now.  
14 The valuation of their property is very uncertain.  
15 Their long-term tax burden is very uncertain.  
16 They've had the name of their community, unfortunately, had aspersions cast on it for the  
17 last six years ever since I got here.  
18 And now, they're trying to figure out how much is it going to cost them to remain in  
19 Clarksburg.  
20 Given the timeframe in which many of them bought their homes, it's likely many of them  
21 don't have the very best, sterling, 30-year fixed-rate mortgages.  
22 Many of them may be struggling with uncertainty with respect to their own debt  
23 circumstances.  
24 And now, they're not sure how much their home is worth and they're not sure how much  
25 tax they're going to have to pay.  
26 So, I congratulate the council president for being responsive to that uncertainty and I'm  
27 delighted to co-sponsor both of his resolutions, and I'll be very happy to cast my vote in  
28 favor of both of these resolutions.  
29 I live in a different part of the county.  
30 I live very close to Mr. Elrich and Ms. Ervin.  
31 I don't expect that if Mr. Knapp's resolutions pass, that I or my neighbors will see any  
32 noticeable increase in the tax rate that we pay.  
33 We are one county.  
34 And Takoma Park and Wheaton and Kensington and Bethesda and Potomac were not  
35 built with this clever taxing mechanism.  
36 The citizens of Montgomery County took responsibility to build infrastructure for all of  
37 Montgomery County.  
38 Now, as elected officials, we have to understand what is happening now, and when might  
39 be the right time frame, and when might be the wrong timeframe to be spending a great  
40 deal of time thinking of clever new ways to raise taxes.  
41 I don't think this is the best time to be doing that.



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1 I appreciate the desire of the MFP Committee and its chair to achieve a sense of closure  
2 on this issue.  
3 They have been working on it and they want to get it off their plate.  
4 And that has some merit but I don't think it's a meritorious enough reason to raise taxes  
5 on people in Clarksburg right now.  
6 I don't think the time is right and I don't need to repeat everything the Council President  
7 and Mr. Elrich said about how badly this has been handled over the last several years, but  
8 it's been handled very, very badly.  
9 So, I feel an obligation to them.  
10 And I respect the work of the chair of the MFP committee, but she could not have been  
11 clearer.  
12 This has always been about Clarksburg.  
13 The idea that this bill that we're going to take up next is not about Clarksburg, but it's  
14 some housecleaning mechanism.  
15 It's not so.  
16 It's always been about Clarksburg and I recollect our beloved colleague Marilyn Praisner  
17 and Ms. Trachtenberg introduced this bill in the first place in order to prepare to impose  
18 development district taxes on Clarksburg.  
19 That is the intent of her bill.  
20 That is what this bill is about, and her remarks make that abundantly clear.  
21 And Ms. Trachtenberg's entitled to her point of view, that she thinks the people in  
22 Clarksburg were fully and amply noticed and that they ought to pay more taxes.  
23 That's her view.  
24 That's the effect of her bill.  
25 That would be the effect of her vote against these resolutions, and she's entitled to that.  
26 But it's not where I'm coming from right now.  
27 There may be a point in the future where the economy gets back in shape and where  
28 ambitious plans for substantial, new investment in residential or commercial communities  
29 such as White Flint are moving ahead at a rapid pace again and I'm looking forward,  
30 frankly, to a time when the Montgomery County's economy is healthy again, but it's not  
31 healthy now.  
32 The urgency of raising revenues in White Flint, I think is slim right now.  
33 I think the time will come when White Flint is roaring ahead, but that's not today.  
34 And we have to be--we have to understand and we have to be responsive to the  
35 economic conditions today because we're going to cast these votes today.  
36 I might consider, so I'm going to--my remarks will cover both the resolutions and bill.  
37 I  
38 might consider voting for a bill like this at some point in the future if it seemed to me that  
39 we were at a place where lots of new development was likely to occur and we wanted to  
40 make sure that we were allocating costs fairly.



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1 But there's not a lot of new development happening right now in Montgomery County and I  
2 don't see the urgency of this bill.  
3 And like the Council President, there might not have been urgency about these  
4 resolutions.  
5 Other than that, this bill was moving and the Council President had the MFP committee  
6 and its chair pleading with him, "Please move my bill, I want to get this bill done this year.  
7 " I don't see the need to get this bill done this year, but the Council President has  
8 accommodated the MFP committee and I absolutely agree with those in Clarksburg who  
9 say, "If you're going to do this bill, which you know, is no secret, I'm going to vote against  
10 the bill, please do the resolutions as well.  
11 " So, I think it's the right time for the resolutions.  
12 I think it's the wrong time for the bill.  
13 I'm a Keynesian, you know.  
14 Let's look at when we're putting money into the economy and when we're sucking money  
15 out.  
16 When we're in a recession, we should be putting money into the economy.  
17 When times are good, that's the time when we can talk about revenue-raising measures  
18 and allocating costs in a different way.  
19 Right now, is not that time, colleagues.  
20 MICHAEL KNAPP: Councilmember Floreen.  
21 NANCY FLOREEN: Thank you.  
22 I think Clarksburg is a terrific place.  
23 It's--I think it's a result of really innovative and creative planning.  
24 I think it's a really neat place, and it's going to get even better.  
25 It's challenged right now, certainly.  
26 It's got all mixed up in debate regrettably over the last, what?  
27 Four years now?  
28 Five years?  
29 It's dreadful because it's created a perception that's just plain wrong.  
30 It's a beautiful, beautiful, interesting community.  
31 And with the development of a community that's not complete, it's just partially completed,  
32 you're going to have bumps, bumps in the road.  
33 And I have to say, you know, Clarksburg, though, never would have gotten off the ground  
34 if development districts hadn't been anticipated as the way to move this community  
35 forward.  
36 Now, you can disagree with that choice.  
37 It was in the master plan years ago, and then, of course, it took time to become  
38 implemented.  
39 But I do think that's important history to keep in mind here.  
40 It was always intended that there would be something.  
41 No one is proposing that there be a tax imposed today.



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1 But the fact of the matter is people have had notice, the County Executive does intend to  
2 proceed here.  
3 And as Ms. Ervin has pointed out, this initiative would put the Clarksburg folks pretty  
4 much in the middle.  
5 That's what we were told by our finance people last week of the County tax rate burden.  
6 I think that's all relevant.  
7 They're not being singled out.  
8 But what we are doing, frankly, is trying to look at ways to finance the things that make  
9 communities even greater.  
10 Our communities want amenities.  
11 They want the roads that get them from point A to point B.  
12 They want the transit systems that move them from point A to point B in environmentally-  
13 friendly ways.  
14 I think as Councilmember Trachtenberg has said, this really is not just about Clarksburg,  
15 it's about the future.  
16 How do we fund these things?  
17 Can we continue to raise the county's tax rate to support desperately needed capital  
18 programs?  
19 Well, we can work at it, but I don't think--I think the trend was started with the Clarksburg  
20 thinking, and I think we will continue to work on, I just think we should at least, is looking  
21 at user fees for things.  
22 That certainly is the trend in the state.  
23 That's the trend at the national level, and I think we have to move away from "the  
24 everyone pays" approach, that we've used so far because everyone does not all use.  
25 And that is the challenge that Ms. Ervin pointed out with respect to her folks in her district  
26 and our folks throughout the county.  
27 These vesting of dollars associated with the infrastructure, whatever it may be, a library or  
28 a road, as we all know, they get cut.  
29 They get cut because we have other competing needs.  
30 Look at the state transportation  
31 trust fund.  
32 I could rant and rave for hours on that.  
33 Constantly, for our reform, to serve other really critical and important needs.  
34 And I don't know what's going to happen with this budget this year.  
35 Are we going to have to further delay other kinds of projects in the county that the state  
36 has already taken a hand at reducing?  
37 Because we need to fund employees and schools and you name it, other things.  
38 No question, these are important and critical realities.  
39 But I think it's important to have this conversation in this context of where we're going to  
40 go from here.  
41 And I think this is a step that we committed to in the past, at least for Clarksburg.



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1 I've already voted for this once.  
2 And frankly, nothing has changed.  
3 Except that, you know, we've got more people.  
4 They're engaged, and God bless them, you know, they certainly have a very valid concern  
5 and a point of view.  
6 I respect that.  
7 But I do think--I urge my colleagues to think about what this means for us not just for  
8 today, and not just for when this particular obligation may be imposed; but for our future  
9 and how we pay for what our residents all collectively really do want at the end which are  
10 the elements that make these communities so terrific.  
11 That includes parks.  
12 That includes playgrounds.  
13 It includes the nice things that add to the character, and really the attraction of  
14 Montgomery County and all of its different  
15 communities.  
16 So, I disagree with the--I appreciate the intention of the sponsors of these initiatives with  
17 respect to Clarksburg.  
18 I know they're attentive to the needs of the community and all these requests of the  
19 community, but I think it would be very short-sighted to go forward with these resolutions.  
20 MICHAEL KNAPP: I have just a couple of quick questions.  
21 I want to know if Ms. Barrett could join us really quick because I had a question just as to  
22 the implementation if the development were to go forward.  
23 When we had a conversation last week or two weeks ago, you had indicated that you  
24 couldn't do anything until you knew how many units you actually had.  
25 Do you know roughly when that might occur?  
26 JENNIFER BARRETT: Well, one thing, that was.  
27 .  
28 .  
29 MICHAEL KNAPP: The market's falling apart so that's the second part of the question.  
30 JENNIFER BARRETT: I mean, going forward, if we can talk that the two districts  
31 separately?  
32 MICHAEL KNAPP: Yeah, you know what?  
33 I mean, you actually have one that's formed.  
34 So, if that were to go forward, when would you actually be able to figure out?  
35 JENNIFER BARRETT: Town center, I think, because there's an upcoming date with the  
36 Planning Board for some final approvals and with--under the changed law, with the ability  
37 to start taxing upfront, I think we could probably move forward and toward in terms of  
38 creating that final taxing methodology and creating the structure of the bond resolution.  
39 I would try to aim towards getting that over to the council for spring decisions, you know,  
40 for the tax rate, and the tax rate could go on the tax bill as early as next July if the Council  
41 took action on taxation if, you know, passed the third resolution, etcetera.



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1 MICHAEL KNAPP: So, you could have a proposal to the Council to raise people's taxes  
2 as soon as April?

3 JENNIFER BARRETT: The vote.

4 MICHAEL KNAPP: That would be good.

5 JENNIFER BARRETT: No, it has something to do with.

6 .

7 .

8 MICHAEL KNAPP: No, it was symbolism.

9 JENNIFER BARRETT: Okay, but it would be on the July tax bill with first payments  
10 through September 30th.

11 MICHAEL KNAPP: And.

12 .

13 .

14 JENNIFER BARRETT: For the other two districts, I think what I'm hearing from the  
15 Council is an intent to, from Mr. Elrich, has been pushing for the ability to levy the taxes  
16 earlier and try to make some estimates about best estimates we can about the tax rates.  
17 I think what we would have to do--we've been very careful with these residential districts  
18 to not tax too high.

19 We wanted to get it right.

20 If it's the Council's intent that it's more of getting them used to paying taxes so that's part  
21 of the disclosure process where it's part of their financing, I think we could make some  
22 estimates and the worse case from the number of units.

23 And I did talk to bond council about this last week to ensure that under the provisions of  
24 the bill as amended, we could do these kinds of things.

25 I mean kind of a worst case.

26 So, you had the lowest unit count.

27 It sets the taxes higher initially.

28 Then if more units are built, it's

29 spread over more units, and you could, you know, lower them over time.

30 It's a discussion we can have I think as soon as we probably go back to MFP with that in  
31 terms of how we approach it, and you all would be making these decisions obviously.

32 But that's how I had approached the recommendations to work towards the other two  
33 districts.

34 MICHAEL KNAPP: And when could the bonds be issued?

35 JENNIFER BARRETT: When we issue the bonds is a slightly different issue.

36 We have to have all these structures in place.

37 And obviously, as I mentioned, the Clarksburg Town Center are closer to, you know,  
38 knowing what's going to be there, etcetera, than we are with the other two districts.

39 The other two districts are going to be a little bit longer process because we have the  
40 issue of sub-districts that has been raised.

41 .



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1 .  
2 MICHAEL KNAPP: But even with the one that we know, how soon could you issue those  
3 bonds?  
4 JENNIFER BARRETT: On the town center?  
5 MICHAEL KNAPP: Sure.  
6 JENNIFER BARRETT: Probably spring of 2010.  
7 We typically structure the bonds to issue in the spring because it the lowest cost to the  
8 people paying taxes.  
9 They don't have capitalized interest for a long period of time.  
10 So, we usually aim for spring.  
11 So, the spring of 2009 would be too soon.  
12 So, spring of 2010 for town center.  
13 That will be the soonest.  
14 Skylark and Village are going to be a little bit longer process because we've got to talk to  
15 the developers, we've got to negotiate implementation agreements deal with the sub-  
16 districts, what we build and secure when, etcetera.  
17 So, that will be a little bit longer process.  
18 And we don't want to issue bonds until we're sure they're going to pay.  
19 We don't want to default on this kind of debt, on any debt with Montgomery County's  
20 name on it.  
21 MICHAEL KNAPP: Okay, thank you.  
22 Actually, I needed Mr. Orlin.  
23 He just walked out the door.  
24 JENNIFER BARRETT: Okay.  
25 MICHAEL KNAPP: I think we're getting him.  
26 I think, no--just went to grab him.  
27 No, no, I need him.  
28 Did you get Glenn?  
29 Okay.  
30 All right, we're getting him, just for a second.  
31 While waiting for that, Councilmember Berliner.  
32 ROGER BERLINER: I confess.  
33 I find our discussion here today to be among the most fascinating in almost two years that  
34 I've been on the Council; the split among us and how we look at virtually the same facts, if  
35 you will, and come to such divergent points of view.  
36 I hear my colleagues who are going to vote against this speak about their concern with  
37 respect to the precedent as with establishing their desire to have vital development  
38 districts going forward.  
39 Well, I represent the White Flint area, and I promise you, there's no way we're going  
40 forward with White Flint Sector Plan without a massive development district.  
41 It will dwarf what Clarksburg's is.





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1 And it better be right.  
2 So, I am supporting this effort by the Council President to pull the plug on what I perceive  
3 to be a failed development district where we did it all wrong, and I think that's part of our  
4 responsibilities.  
5 When we mess these things up as much as this has been messed up, we have a  
6 responsibility to acknowledge it and make everybody whole.  
7 So, I cast my vote fully supportive of going forward with development districts in the future.  
8 I understand that some of my colleagues have more skepticism with respect to that  
9 particular instrument than others, but I share the view of the MFP Committee and others  
10 who believe that we will not have, and Councilmember Floreen, we will not have the  
11 infrastructure  
12 necessary in White Flint unless we have a financing tool of this nature.  
13 It may not be a development district.  
14 It may be something akin to it.  
15 But it is something that we're going to have to do and we're going to have get it right, and  
16 we're going to have to learn the lessons from Clarksburg.  
17 That to me is the most important part, is that we have lessons to learn.  
18 Chair Trachtenberg's bill addresses some of those lessons, particularly with respect to the  
19 notice provision so I as a lawyer, I was deeply engaged in the conversation with respect to  
20 the effectiveness of the notice and I come out on a different place.  
21 Yes, I believe people were put on notice that there would be something.  
22 But if you look at what the language was and the blank with respect to how much when,  
23 those aren't immaterial facts.  
24 People don't have, in my judgment, effective notice if they have no clue how much they're  
25 going to be paying or when it's going to start and how long they're going to be paying it  
26 for.  
27 These aren't irrelevant considerations.  
28 So I concluded that the notice was flawed, our processes, government processes, both at  
29 the Executive Branch level and Park and Planning--the whole thing was a mess.  
30 And then, it's time to just say this was a mess without prejudice to our getting it right going  
31 forward.  
32 And we can get it right going forward, and we should get it right going forward.  
33 So, as I just find it so interesting how we all look at this in good faith and just come to a  
34 very different conclusion with respect to it.  
35 Thank you.  
36 MICHAEL KNAPP: I just had a quick question for Dr.  
37 Orlin.  
38 How much was our CIP this past year?  
39 GLENN ORLIN: The total CIP?  
40 Good question, I think it was four billion for over six years.  
41 MICHAEL KNAPP: How much?



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1 GLENN ORLIN: Four billion over six years.  
2 MICHAEL KNAPP: Four billion?  
3 GLENN ORLIN: Four billion--B.  
4 Yeah, B, definitely B.  
5 MICHAEL KNAPP: Four billion.  
6 How much of that was funded with development districts?  
7 GLENN ORLIN: Not much.  
8 There was \$1.  
9 6 million for Stringtown road extended.  
10 There was eight million or so for the library, I believe.  
11 Oh, we actually pulled that out.  
12 We actually didn't put--it wasn't in there.  
13 In the last CIP, it was here, it was pushed off.  
14 Actually, the 1.  
15 6 was supposed to be spent in 08 for the Stringtown road extended.  
16 It wasn't.  
17 Other moneys were used to fill that in.  
18 Is that actually in the CIP though?  
19 Because that's what.  
20 .  
21 .  
22 JENNIFER BARRETT: The list of recommended projects that the Executive had made in  
23 his recommendations in January is in your packet.  
24 .  
25 .  
26 MICHAEL KNAPP: Right and totals what?  
27 JENNIFER BARRETT: And we had--well, we didn't put it on the CIP, okay?  
28 It's 39.  
29 4 million for the Clarksburg Village and the Clarksburg Skylark districts.  
30 .  
31 .  
32 MICHAEL KNAPP: No, no, but my question is, of--that was funded in the CIP.  
33 How much was funded with development districts?  
34 JENNIFER BARRETT: This is development district-funded recommendations.  
35 MICHAEL KNAPP: I know.  
36 What was--in the approved CIP, how much of the \$4 billion was approved with  
37 development district funding?  
38 GLENN ORLIN: I can get downstairs and get it.  
39 I don't have it in front of me.  
40 JENNIFER BARRETT: I think it's Stringtown Road and some of the developer built roads  
41 because we.



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1 .  
2 .  
3 MICHAEL KNAPP: So, a few million dollars?  
4 JENNIFER BARRETT: They've taken the library out which was 17 million and then you  
5 had taken that out.  
6 GLENN ORLIN: The two Greenway trails' grade separations are in the CIP with the  
7 development district funds.  
8 That's not very much.  
9 MICHAEL KNAPP: How much was the Silver Spring Library?  
10 GLENN ORLIN: I should have brought the book.  
11 I don't remember.  
12 MICHAEL KNAPP: Yeah, 15?  
13 Between 12 and 20 million?  
14 Is there, I mean, I guess my point is, I'm intrigued by the conversations that my colleagues  
15 have raised with their commitment to wanting to make sure we can fund infrastructure.  
16 And yet, we just, in May, approved a \$4 billion CIP of which a couple million were funded  
17 with development districts.  
18 Is there development occurring in Silver Spring?  
19 GLENN ORLIN: Sure.  
20 MICHAEL KNAPP: Sure.  
21 Are we paying for a library in Silver Spring?  
22 GLENN ORLIN: Absolutely.  
23 MICHAEL KNAPP: Sure.  
24 What would the cost of that library be if you hammered, if you apportion that across the  
25 residents of Montgomery County?  
26 GLENN ORLIN: That won't be very much.  
27 GEORGE LEVENTHAL: If it's a \$20 million library and there's a million people in  
28 Montgomery County, that would be \$20 each.  
29 MICHAEL KNAPP: Roughly, the same of.  
30 .  
31 .  
32 .  
33 GEORGE LEVENTHAL: Just for fun, fun with numbers.  
34 MICHAEL KNAPP: More or less.  
35 NANCY FLOREEN: He has always been good at math.  
36 DUCHY TRACHTENBERG: It's academic.  
37 GEORGE LEVENTHAL: I appreciate that.  
38 GLENN ORLIN: Actually, it's more like \$40 each over 20 years.  
39 So, it's like \$2 a year.  
40 MICHAEL KNAPP: Plus debt service on the bonds.



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1 But roughly, and roughly, akin to what any other library would cost, it would cost the  
2 residents.  
3 GLENN ORLIN: Right.  
4 MICHAEL KNAPP: How many libraries in Montgomery County are funded with the  
5 development district?  
6 GLENN ORLIN: None yet.  
7 MICHAEL KNAPP: How many are proposed to be funded with development district?  
8 GLENN ORLIN: One.  
9 MICHAEL KNAPP: One?  
10 Just checking.  
11 I am intrigued by this notion that we're all concerned about funding of infrastructure.  
12 And yet, interestingly, the only place where we're talking about funding any infrastructure  
13 with development district is in one community even though we just funded a \$4 billion  
14 capital, capital improvements project program.  
15 And so, while I hear what people are saying, I guess I'm feeling as though that perhaps it's  
16 not exactly an accurate portrayal.  
17 We don't necessarily care if we do that every place.  
18 We just want to make sure we do that in one place.  
19 And so, I guess I'm intrigued by that.  
20 What other capital projects outside of the CIP have been funded, or outside of the  
21 development district have been funded in Clarksburg?  
22 GLENN ORLIN: Well, most of Stringtown road extended was paid for out of GO bonds  
23 and also impact taxes in Clarksburg.  
24 MICHAEL KNAPP: What's the most significant project that was funded in Clarksburg?  
25 GLENN ORLIN: That may have been that.  
26 MICHAEL KNAPP: They had the school and then?  
27 GLENN ORLIN: That school, too, sure.  
28 MICHAEL KNAPP: Okay.  
29 Schools, and then the other was, oh, yeah, the correctional facility.  
30 So, the one thing we feel is important to make sure we fund out of GO bonds and we fund  
31 out of, that we obligate everyone is a correctional facility.  
32 We're not really looking at those things that are in the community that we actually need to  
33 make.  
34 GLENN ORLIN: And the North County depot.  
35 MICHAEL KNAPP: Oh, that's right.  
36 And we're going to make sure we got a big parking lot to park school buses or to park  
37 county buses.  
38 I guess I just continue to kind of be struck by this notion that there's one place we're going  
39 to do this, and we'll make sure that they pay for it.



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1 But when it comes to things that we think make a community a great place, we're going to  
2 make sure that those get rolled into our capital budgets throughout the rest of the county  
3 and make sure that all of the county's residents pay for that.

4 As it relates to WSSC, we got a lot of water main breaks over the last couple of years,  
5 who pays for that?

6 Who pays for that infrastructure?

7 GLENN ORLIN: The repairs?

8 MICHAEL KNAPP: Everything?

9 GLENN ORLIN: Everyone.

10 MICHAEL KNAPP: Everyone?

11 I guess the observation I would make is that if we're truly serious about this, that I look  
12 forward to any number of alternative projects that we should be looking at to finance  
13 through development districts and other mechanisms, because I'm pretty sure that a lot of  
14 the infrastructure that is failing, most of the residents in those communities never paid for  
15 that infrastructure in the first place.

16 There wasn't a development district in Silver Spring or Bethesda when those water mains  
17 were built.

18 And so, when we look at how we're going to change those things now, we're going to go  
19 back and we're going to look at ways to increase the rates on all of the ratepayers to  
20 address the infrastructure that serves a

21 small portion of that community, of our broader community.

22 And interestingly, that's probably a pretty good policy.

23 But I think if we start only by--if we really want to start taking this to its extreme, which is  
24 what I've heard a number of my colleagues say today, we should be looking at some very  
25 unique methods as to how we're actually going to fund our infrastructure going forward.

26 And why not look at development districts for communities who need water mains  
27 taken care of.

28 I think, you know, I think that's a very viable alternative and I'll put it on the table.

29 And I think that it's just, it's very interesting to me when people talk about how we want to  
30 build a great community and we're committed to building a great community, and we want  
31 to make sure that the community pays for these things, we want to do it everywhere  
32 except one which, oh, by the way, everyone has recognized so far has been an amazingly  
33 flawed process and as soon as we get done acting on these two resolutions, we're going  
34 to change the law because it was so bad that we have to go back and fix the law to be  
35 able to use it again.

36 I think that kind of shows there was something that was pretty screwed up.

37 And so, I guess it's just an interesting observation to make.

38 And a couple of my colleagues have talked about amenities.

39 We're not talking about funding amenities in Clarksburg.

40 We're talking about funding the basics, the basics which county government generally is  
41 responsible for.



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1 In fact, we're so far behind the eight ball in order to actually get a fire station up and  
2 running because we actually had a group of people who were there that had no access to  
3 public safety resources.

4 We had to retrofit a commercial garage to put the fire station into so we can make sure  
5 that we could actually get people there.

6 And within weeks of actually having put it in place, there was a fire that had we not had  
7 that would have devastated probably four blocks of the town center in Clarksburg.

8 But, you know, we're not focused on those things.

9 We're going to make sure that we have a Clarksburg development district in place to  
10 make sure that the residents of Clarksburg are going to pay their fair share.

11 And so, I'm intrigued as to how we're going to begin to implement this throughout the rest  
12 of our county to make sure that when we look at projects everywhere else, that we're  
13 going to make sure that the residents of those communities pay their fair share because I  
14 think that's--I've heard a number of my colleagues say, is the important thing that we make  
15 sure we do today.

16 And so, I just think it's important for us to raise that in a \$4 billion CIP, and a county that's  
17 concerned about funding infrastructure, we've funded a couple million dollars with the  
18 development district with alternative source of funding, just a point to raise.

19 Councilmember--Council Vice-President Andrews.

20 PHIL ANDREWS: Thank you, President Knapp.

21 Well, a number of my colleagues, but especially Councilmember Trachtenberg and  
22 Council President Knapp have spent a lot of time on this issue and one can clearly see  
23 how strongly the views are held.

24 I agree with my colleague Councilmember Berliner that the council members are coming  
25 to different views while looking at the same situation.

26 And I think that reflects a real analysis by members that there--the issue here is what level  
27 does a less than perfect process have to rise before you throw it out?

28 And my conclusion is that the advocates for keeping the development districts have the  
29 better of the argument here.

30 Although, there are reasonable arguments on both sides.

31 It is a huge step to dissolve development districts that have gotten to this point.

32 And the key for me is that in my view, the disclosure to those purchasing new properties  
33 was adequate to justify keeping the development districts.

34 I looked at the forms and the forms clearly say they were signed by homeowners that  
35 there would be an estimated tax in the ranges that are on the form on Circle 44, a  
36 thousand, between a thousand and 1500 per year for each single family detached lot, 750  
37 and a thousand for each single family attached lot town homes, and 450 and 800 per year  
38 for each unit in a multi-family building.

39 Now, the Executive has proposed modifying those amounts to reduce them recognizing, I  
40 think, correctly that there should be efforts to keep them to the minimal level necessary to



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1 accomplish the goals of the  
2 district.

3 And I commend the County Executive for looking at this carefully and indicating that that's  
4 what he plans to do because if that comes to pass, and I believe that his recommendation  
5 would likely be observed by the council, that the rates would then be less than were  
6 estimated to be on this form.

7 And I think that is a step in the right direction for the county executive to take, and it would  
8 be for the council as well.

9 So, I think that the argument for throwing the districts out just doesn't meet the high barrier  
10 that--threshold that it needs to meet.

11 And so, I come down on keeping the districts and reforming them rather than dissolving  
12 them.

13 I do think that development districts will be important for the future of the county, and we  
14 will see them in other places, and I don't think the better argument is to dissolve them.

15 I think the better argument is to fix them.

16 And I believe Clarksburg's development districts can be modified in a way that makes  
17 them justifiable.

18 MICHAEL KNAPP: Councilmember Praisner.

19 DON PRASNER: I keep getting the feeling we're trying to put Humpty Dumpy back  
20 together again.

21 I wasn't here when the developmental district in Clarksburg was created.

22 I have to assume, however, that at least a majority of the council thought it was a good  
23 idea.

24 We all know that the process is not going smoothly.

25 But I don't believe it hasn't been going smoothly not because of the developmental district  
26 but for other reasons that we're well aware of.

27 I'm opposed to the two resolutions.

28 I agree with my colleagues who have spoken out against it.

29 I feel very strongly that by passing these two

30 resolutions, it sets a very bad precedent.

31 We all know that--we all agree that developmental districts are going to be needed in  
32 other parts of the county.

33 I don't think we should be switching wagons in the middle of the stream.

34 So, again, for all the various reasons, my colleagues have commented on already, I will  
35 oppose to the resolution.

36 MICHAEL KNAPP: Councilmember Floreen.

37 NANCY FLOREEN: Thanks.

38 I just want--it just happen to have with me the report that we commissioned last year, the  
39 working group report on infrastructure financing.

40 Here's a colored copy--I'll give you this--which outlines, you know, a list of things to do  
41 with respect to how we finance our infrastructure.



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1 These were, you know, people not in the game.  
2 These are outside observers.  
3 I know that this is in response to a particular community issue, and I'm very respectful of  
4 that, but I just wanted to remind my colleagues, we're looking at billions and billions of  
5 dollars of obligation that we need to find a way to support both maintenance and  
6 increased demands.  
7 Now, you know, we've got--certainly, have fire stations.  
8 We added those to the budget.  
9 We're trying to maintain a continually supportive environment.  
10 But I will note that the Council pretty much adopted most of the recommendations of this  
11 group already, and we still have financing issues.  
12 I'm currently working on one of these that of course has met with pretty universal  
13 disapproval which is their recommendation on a local excise tax and non-residential  
14 commuter parking.  
15 You know, nobody wants to pay.  
16 That's the challenge.  
17 And so, what we need to do is talk about financing  
18 solutions and move forward with the right--with approaches that meet new concept  
19 criteria for solving new problems.  
20 And I think, certainly, the issue, a special taxing district has always been on this council's  
21 agenda and will continue to be.  
22 And I think Mr. Berliner's point is absolutely on target.  
23 We all basically, I think, subscribe to the objective of finding responsible way to solve  
24 problems.  
25 These are never easy.  
26 And as Mr. Andrews indicated, you know, it's a question of balancing the issues, the  
27 priorities and the policies.  
28 And I just wanted to commend to my colleagues all the work we've done so far.  
29 We don't need new reports.  
30 We just certainly don't need more pieces of legal paper to tell us that these are hard  
31 decisions and you do have to balance the equities.  
32 And you also need to, though, be responsible and plan for the future because this is as  
33 much about the past as--about the future as it is about the past and our overall  
34 obligations.  
35 And we could--we'll probably have the exact opposite conversation to a certain degree  
36 when we talk about financing White Flint and other kinds of initiatives.  
37 What we have to put into pay for the Purple Line and the city's transit way.  
38 Ain't gonna be free, folks.  
39 These are all costs that we're going to continue to worry about and I think this  
40 conversation has been very good for reflecting our own dedication to the same issues with  
41 different perspectives.





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1 But with the goal towards actually trying to solve problems, I think that's one that we will  
2 continue to share these initiatives with.

3 So, I just wanted to remind everyone that this is an issue we have been worrying about for  
4 some time and we will continue to worry about, and the devil of course is in every little  
5 detail, no question about that.

6 But we do have to move forward.

7 And I think our overall credibility is at risk if we are unable--if we revisit things on a regular  
8 basis.

9 Thanks.

10 MICHAEL KNAPP: Councilmember Elrich.

11 MARC ELRICH: Yeah, I think our credibility is at risk when it took seven years to get here.  
12 Our credibility was shot a long time ago.

13 To Ms. Barrett, I want to say that my intention was not to get people used to paying taxes.  
14 Frankly, my intention was to have the developers who were going to benefit from the  
15 rezoning start paying taxes for the value that we've created for them in giving them the  
16 rezoning.

17 The fact is that residents, when the property is transferred, will see the tax bill at least  
18 deals with the clarity on the notice issue.

19 There's no question about notice when you know that the tax is riding on the property.

20 But I want to be clear about my intention is to get money from other people, not just from  
21 the future residents of these areas.

22 I think it's a red herring to say that if the council kills these districts, that it's going to mean  
23 we don't do development districts in Montgomery County.

24 I mean that's not the intent and, you know, the sponsor of the other legislation can clearly  
25 count to more than five people on the council who support changes in the law in order to  
26 go forward.

27 So to say if we don't do--if we kill this, somehow we're not going to do development  
28 districts is just not right.

29 I mean there's more than five of us who are committed to doing development districts.

30 So, I don't get it.

31 And I understand that people are concerned about passing these taxes on to the general  
32 population because I don't support passing what's lost here onto everybody else.

33 But if in fact there's a solution that doesn't pass this tax burden on to the rest of the  
34 taxpayers in Montgomery County, why are we still making that argument?

35 I mean, that's--if that's not true and that's the situation we're trying to avoid, and there's a  
36 solution that avoids that, then what are we protecting?

37 Because if we avoid that, we're not protecting the taxpayers in Montgomery County,  
38 they're already protected.

39 The other thing is that I'm really concerned that we're, you know, that this discussion leads  
40 to new kind of parochialism and balkanization of the county.

41 I think Mike made the good point and he couldn't make it a lot more pointedly.



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1 If you add, I mean, the library in Silver Spring is not going to be \$20 million.  
2 The library in Silver Spring is between 40 and \$50 million.  
3 And the POR and the size of this library grows with every weekly meeting, and it should  
4 be because a library that was originally designed for Silver Spring was really, really unfair  
5 for that community.  
6 We're not thinking at all about creating a development district in Silver Spring to replace  
7 the library.  
8 I mean they already have a library.  
9 It's not like they didn't have a library.  
10 We're building a brand new, much bigger library.  
11 There's not a discussion about a development district.  
12 And there's no discussion about development district for the civic center to the tune of--  
13 was it \$18 million now?  
14 And there's no talk about a  
15 development district for Live Nation, for building that building.  
16 I mean, there's no discussion of, what, 60 or \$70 million of capital projects.  
17 They're going to go into Silver Spring being layered on to residences of Silver Spring as a  
18 development district.  
19 This council approved a ton of recreation centers around the county because of what we  
20 felt were a deteriorating situation around the county.  
21 Nobody said, let's create special taxing districts to build all these recreation centers, to  
22 give people, not just replace the shoddy little things that we had on the sites, we're going  
23 to put bigger and better things on the sites.  
24 Every library we built is replaced with bigger and better than the libraries we built before.  
25 Every school we've knocked down and built again is bigger and better than the schools  
26 that were there before.  
27 And not once has anybody suggested that these should be done with development  
28 districts.  
29 And the truth is they would never get done with development districts because the  
30 development district requires 80% of the vote of the people who live there.  
31 And the idea that the people in Silver Spring would have voted for a special taxing district  
32 for \$80 million for these projects is just not going to happen.  
33 People aren't going to vote for \$50 million projects along their segment of a failing water  
34 line and say, "Oh, yeah, we're going to pick up the bill."  
35 "I mean, what are they going to say, if we don't pick up the bill, we're going to let the  
36 water service collapse in Montgomery County?"  
37 Are we going to hold a gun to people's head and say, you either vote for a development  
38 district or there'll be no water in Eastern Montgomery County?  
39 That's not going to happen.  
40 These are general obligations of the government.  
41 And government's going to continue to discharge its general obligations.



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1 So, the notion that we're going to solve this financing crisis that Nancy alludes to by  
2 creating development districts all over the county is just not true.  
3 Now, the only way it could happen is perhaps there's a well-heeled neighborhood that  
4 says, "You know, to get a rec center over here, we'll impose a tax on ourselves to get it.  
5 " But for every well-heeled neighborhood that might do that, there are a whole bunch of  
6 not so well-heeled neighborhoods of Montgomery County that are never going to be able  
7 to impose taxes on themselves.  
8 And so, is the council going to say that it's all right to have special circumstances and  
9 special facilities in parts of the county with tons of money and the rest of you, well, you  
10 know, if you want it, pay for the special tax in district like they did over in the ton-of-money  
11 location.  
12 But if you're not willing to do that, then you just don't get it.  
13 I don't think that's the way government is supposed to work.  
14 We're supposed to be providing general services for everybody.  
15 So, if we can protect the taxpayers of the county with--by and kill these development  
16 districts, and if we go forward with a good formula for development districts in the future, I  
17 don't see the basis of opposition.  
18 I don't understand what my colleagues are voting for in saying we want to keep these  
19 development districts if no other taxpayer in Montgomery County has to be harmed and I  
20 believe there is a way to do that.  
21 And so, I don't get the support for this unless it's just, we did this before, we don't want to  
22 change our minds.  
23 Well, there are a bunch of us on this council who look at the decisions that were made  
24 before and we want to change the decisions that were made before.  
25 Why is this decision, the sacred decision, that we don't want to change from before?  
26 This is the one place where people don't get a vote.  
27 The White Flint is going to be a similar situation.  
28 And I'll talk about that when we get the development districts.  
29 But I think you need to be very careful about what you lard on to a development district,  
30 White Flint's going to be another place where it's going to be mostly commercial property  
31 that's redeveloped.  
32 There aren't community residents there to speak of and most of what they're talking about,  
33 if you need 80% of the residents' vote, you better draw a really, really small development  
34 district because I somehow don't picture the neighborhoods around White Flint saying,  
35 "Include us in the development district and tax us so the developers can build millions of  
36 square feet of office in retail," and bollix up Wisconsin Avenue beyond belief.  
37 I don't think we're going there.  
38 So, I just fail to see the argument for not dismantling these districts.  
39 No one's made the case that anybody's going to suffer.



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1 And Roger and Mike have made it very clear, their intention, to find  
2 a mechanism to make sure that most of what the developers are looking for, they get  
3 back.

4 So, if everybody walks out of this hall, why do we need this district?

5 MICHAEL KNAPP: On comment, Councilmember?

6 VALERIE ERVIN: Thank you very much.

7 I just have a question regarding Silver Spring's special taxing districts in terms of who  
8 pays for infrastructure in the CBD.

9 Can you just describe for me.

10 I wasn't on the last council so I didn't have to take the vote that the last council did to  
11 approve the Clarksburg Development District.

12 Clearly, there must have been some broad public policy goals that they were trying to  
13 establish that remains to be seen.

14 But can you just speak to the difference between the Clarksburg Development District  
15 because there was Greenfield up there that is a brand new community as opposed to how  
16 we get our infrastructure built and paid for in other redevelopment districts.

17 GLENN ORLIN: Well, in Silver Spring, the only special taxing districts that come to mind  
18 are the urban district and the parking lot districts.

19 The urban district is mostly an operating--fund operating program so there's very small  
20 capital improvements there like benches and such, but nothing substantial.

21 Parking districts in Silver Spring has had, in the past at least, the ability to pay for  
22 additional lots and garages.

23 But the parking district tax is paid for by essentially people who probably was volunteering  
24 to pay the tax rather than automatic tax.

25 So, they're doing that rather than providing their own code required marking.

26 So, it really is incomparable.

27 Most of the major infrastructure in Silver Spring, whether it's libraries or road  
28 improvements or schools in the area around it are paid for generally by the tax--by the  
29 county, generally.

30 VALERIE ERVIN: Okay, because I've heard some very interesting comments made by  
31 several of my

32 colleagues up here, and I really appreciate the conversation because this has not been  
33 an easy decision for I think everybody on this dais to come to today.

34 I don't want to see balkanization of the county either, but it seems to me that the  
35 Clarksburg Development District was set up for a specific purpose.

36 If someone could just describe what the last council's intention was, I would like to hear it.

37 Well, there were some folks on the dais who were here, so.

38 GEORGE LEVENTHAL: Mr. President, if I may, we knew what the intent was.

39 But we couldn't have anticipated early in our, in the last term that the whole situation with  
40 Clarksburg would turn out as it did that there would be, that the implementation of the  
41 development districts would take so long, that we would understand from testimony



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1 despite the fact that some have shown signed affidavits from some of the residents, there  
2 are other residents who said they never got them.  
3 And so, you know, we--I mean, yes, I think it was a unanimous vote.  
4 I don't recollect the debate.  
5 It was a pro-forma thing.  
6 It was a very early in my first term.  
7 And I know I voted for it.  
8 I've looked it up.  
9 But at the time, we weren't--the term Clarksburg didn't have the resonance that it has  
10 today.  
11 The developer who is requesting the reimbursement--I don't even want to go there.  
12 I mean, we've learned so much more about Clarksburg in the years since and we've heard  
13 from the residents their concern that they don't believe they were given adequate notice,  
14 many of them.  
15 And many, many years have intervened in which the previous county executive and this  
16 county executive have been extremely reluctant to impose the development district taxes,  
17 have not had clarity that it was fair and appropriately handled.  
18 And so, now it's six years later and we're in different circumstances.  
19 MICHAEL KNAPP: You know what, I thank you.  
20 And I appreciate the point that Councilmember Ervin raised because that's exactly right,  
21 there are special taxing districts throughout the county that don't pay anything like this.  
22 This is the only place in the county that is going to pay for the infrastructure that is there  
23 again, and a \$4 billion CIP like this, we have a couple of million dollars that are going to  
24 be paid for out of one community's pocket.  
25 GLENN ORLIN: Well, West Germantown also is development district.  
26 MICHAEL KNAPP: Oh, right, the other uptown community that we actually did the  
27 implementation right.  
28 But so, it showed that it can actually work right, but if you happen to live north of a certain  
29 place, be prepared to pay for your infrastructure.  
30 But I guess at this point, about everything has been said that can be said.  
31 I guess to the folks in Clarksburg, I would just say it would appear to be a pretty sad day  
32 that the majority of the government has basically turned its back on them.  
33 And so, with that, I would suggest that we vote on the resolution to terminate the  
34 Clarksburg Town Center Development District.  
35 Those in support, indicate by raising your hand.  
36 Councilmember Leventhal, Councilmember Berliner, Councilmember Elrich, and myself.  
37 Those opposed?  
38 Councilmember Ervin, Councilmember Praisner, Councilmember Trachtenberg,  
39 Councilmember Floreen, Council Vice-President Andrews.  
40 It fails four to five.



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1 Resolution to declare council intent regarding proposed Clarksburg Village and Clarksburg  
2 Skylark Development District, those in support indicate by raising your hand.  
3 Councilmember Leventhal, Councilmember Berliner, Councilmember Elrich and myself.  
4 Those opposed, indicate by raising your hand.  
5 Councilmember Ervin, Council Vice-President Andrews, Councilmember Trachtenberg,  
6 Councilmember Floreen and Councilmember Praisner.  
7 It fails four to five.  
8 I would also, just at the end, like to thank my colleagues for their co-sponsorship and their  
9 support.  
10 And I appreciate their efforts in this regard.  
11 We now turn to Legislative Session day number 33.  
12 Madam Clerk, is there any journal to approve?  
13 MARY ANN PARADISE: You have the journal of September 16th and September 23rd.  
14 MICHAEL KNAPP: Is there a motion?  
15 ROGER BERLINER: I move.  
16 MICHAEL KNAPP: Moved by Councilmember Berliner.  
17 Is there a second?  
18 GEORGE LEVENTHAL: Second.  
19 MICHAEL KNAPP: Seconded by Councilor Leventhal.  
20 Is there a discussion on the journal?  
21 Seeing none, all in support indicate by raising your hand.  
22 That is unanimous.  
23 Thank you.  
24 We now turn to expedited Bill 32-08, bond authorization sponsored by Council President  
25 per request of the County Executive.  
26 Public hearing and action is scheduled for 10/28 at 1:30 p.  
27 m.  
28 Is there a discussion?  
29 Seeing none, expedited bill 32-08 is introduced.  
30 Call of bills for final reading.  
31 Bill 36-07, Development Districts Amendments.  
32 I'll turn it to the chair of the MFP Committee, Councilmember Trachtenberg.  
33 DUCHY TRACHTENBERG: Thank you, President Knapp.  
34 Well, I think we've had a robust conversation on this bill both today and during the two  
35 other work sessions here at the county council.  
36 And I would just state for the record that there was a unanimous recommendation that  
37 came from the MFP committee, again, back in April to support the bill as amended and I  
38 would submit to my colleagues that that was the formal committee recommendation.  
39 And I would ask for my colleagues' support at this time.  
40 MICHAEL KNAPP: Councilmember Leventhal.  
41 GEORGE LEVENTHAL: Timing is everything.



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1 This is the wrong time to be doing this.  
2 This will not be well received by the people that we represent.  
3 We should not be doing this right now.  
4 MICHAEL KNAPP: Councilmember Elrich.  
5 MARC ELRICH: I had asked questions about how to ensure the taxes are collected prior  
6 to anybody buying a house.  
7 And you say in here, your comment is, it could be done.  
8 JENNIFER BARRETT: After we.  
9 .  
10 .  
11 MARC ELRICH: My question is, how do I guarantee that it is done?  
12 So, that's not a decision that's made by the Executive, but a requirement of the law that  
13 the districts are in place and people are taxed before anything happens?  
14 JENNIFER BARRETT: After meeting with county attorney to discuss it and then just  
15 confirming with the bond council, you cannot collect taxes until the district is formed.  
16 So, the answer of your question would be to somehow coordinate formation with the  
17 district with approvals in the planning process.  
18 MARC ELRICH: Wasn't the formation going to be before any construction begins?  
19 I mean, shouldn't we complete the process?  
20 I mean, why should anybody go forward not knowing whether the process is completed?  
21 JENNIFER BARRETT: What happened  
22 in Clarksburg is that they have their planning approvals, and they were able to go forward  
23 before the districts.  
24 MARC ELRICH: What I want to create is a mechanism where when they go for approvals,  
25 they have to go to the development  
26 district and it's got to be created before they get--before anything else happens.  
27 MICHAEL FADEN: The law could be amended to say that.  
28 I'm not sure how practical it could be.  
29 As Ms. Barrett said, once the developers have all their  
30 planning approvals, they can go forward.  
31 If it turns out that that may not be the best way to proceed, the development district will  
32 take another--I would say, a minimum of a year to put in place after those planning  
33 approvals.  
34 Jennifer, you should tell me if that's too short or too long an estimate.  
35 And so, what you would be doing is putting a freeze on development during that period.  
36 Given the added notice in this bill, I think it is much less likely that any potential  
37 homebuyer would not be aware that the development district tax would be coming toward  
38 them.  
39 MARC ELRICH: There's a notification issue, but there's the fundamental issue to me  
40 which is, if I'm changing the zoning on somebody's property to create this much value, we



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1 ought to be capturing it and not wait for the homeowner to be the first person to pay for  
2 that value.

3 MICHAEL FADEN: I don't think, in principle--we're not disagreeing with that.

4 I don't

5 think, either.

6 The question is how fast can it be done and what else is held up when you wait to do that.

7 MARC ELRICH: Given both the approval and the construction process, how long between  
8 approvals and when things actually get in the ground?

9 MICHAEL FADEN: In theory, building permits could go out very soon after all the  
10 subdivision approvals are issued.

11 MARC ELRICH: The first step would be building the roads, building the sewer and all the  
12 rest of the stuff.

13 MICHAEL FADEN: It depends if that's already there or needs to be put in.

14 That's a site-by-site question.

15 MARC ELRICH: And there's no way to create a track where the development district is on  
16 the same track as.

17 .

18 .

19 MICHAEL FADEN: You could attempt.

20 .

21 .

22 MARC ELRICH: It triples?

23 MICHAEL FADEN: You could attempt to do that, and I'm hearing more of a stronger  
24 commitment to do that.

25 But I think it does take, as I mentioned, probably at least a year, possibly more, to do all  
26 the work, including bringing the development district itself to the council and to do the kind  
27 of work Ms. Barrett described to calculate what the taxes would need to be before the  
28 district can be--before the numbers for the taxes can be clear enough to actually impose.  
29 And then, of course, you can only do it since this is a form of property tax on a year-to-  
30 year basis.

31 So, if you missed one, July 1st, you would have to wait till the next one.

32  
33 MARC ELRICH: Isn't there a midyear tax?

34 MICHAEL FADEN: No.

35 There's a midyear assessment for new properties, but there isn't--the taxes imposed only  
36 on the--the tax year starts each July 1st.

37 MARC ELRICH: I'm still not understanding why at the point of subdivision, that now, they  
38 want to go forward; they can't be required to file for a development district so that that  
39 process is completed before they go, get through all this.

40 MICHAEL FADEN: They could be required to file for a development district early.

41 Again, that wouldn't always happen.





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1 The question is what can be done in parallel and what needs to wait for the final results of  
2 the subdivision process.

3 MARC ELRICH: I guess I want to go from could to have to because I understand the  
4 incentive to file the district as late as possible because the later I file the district, the less  
5 taxes I pay.

6 So you really incentivized to drag this up to the last possible moment.

7 What I wanted is no incentive to drag it out to drag it out to the last possible moment.

8 If you know this is what you want to do and you're going to ask for a development district  
9 to do it, you have to ask for it at a point certain and everything else flows from that.

10 And then there's no game playing, and no figuring out, can I avoid getting any construction  
11 in the ground or any sales until I pass the deadline for imposition on taxes on me.

12 It seems to me there's a way to construct it so that there is this train of certainty.

13 JENNIFER BARRETT: I understand what you're describing to be a legal challenge  
14 because these have always--the Development District Law, Chapter 14 was created, in  
15 my understanding, as a voluntary program other than there is provision in it for council  
16 formed districts, but then you still have to get the consent before you can form them, so.

17 .

18 .

19 MARC ELRICH: I'm still saying it's voluntary.

20 I'm just saying you got to volunteer for it at the moment you ask for a subdivision.

21 You don't get to volunteer for it the day you put; you decide you want to start selling  
22 houses.

23 I mean there's a difference when you volunteer.

24 JENNIFER BARRETT: This is a legal challenge.

25 I don't know how you make it work.

26 MICHAEL FADEN: I think it can work on paper.

27 How well it can work in reality, we haven't discussed enough.

28 We're not prepared to recommend it to you.

29 MARC ELRICH: I guess I'm puzzled by this because people who did development districts  
30 are usually talking about pretty big things.

31 You're not doing development district because you want to put a streetlight up, okay?

32 So, somebody has to know pretty early in the process whether they plan on financing the  
33 stuff out of their pocket or out of somebody else's pocket.

34 That seems to me to be pretty clear.

35 I don't believe that developers go into this.

36 I mean the whole predicate behind Clarksburg is that they expected the creation of the  
37 districts even as they were going forward.

38 I mean, the language and the thing that people signed says, "A district may be created.

39 " So, they obviously anticipated pretty early on.

40 Why not require that if that's what you, what you're going to do, you have to submit it  
41 really early on.



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1 MICHAEL FADEN: I mean in Clarksburg and probably in West Germantown as well, it  
2 was clear very early on in Clarksburg back to the days of the master plan we were  
3 drafting, the development districts would be used.

4 The developer does not know until, is there subdivision, what he will have to pay for or  
5 what the development will have to pay for.

6 So, and of course, the developer can abandon a development district application.

7 So you can require an application upfront in subdivision.

8 I'm not sure in real life how much that gets you.

9 I think taking out the major constraint which this bill does, that bonds have to be issued  
10 before taxes are applied removes the only roadblock beyond the process itself.

11 It is from my point of view, in the county, in everyone's interest to get the taxes in early.

12 It's certainly in the county's interest.

13 It's in the developer's interest if they want to build, get the infrastructure built relatively  
14 quickly.

15 And it's in their interest to have the development district process to start early so that they  
16 can control who has to consent to it.

17 Beyond that, I'm not sure how the process would change by making an early application  
18 mandatory.

19 MARC ELRICH: I guess like other things I've seen up here, I'm not happy with discretion.

20 I mean, just, you know, the ability to do things when you feel like it or when you get  
21 around to it is just to me opens a process up to mischief.

22 And there's been enough mischief on this.

23 I mean the very fact that people asked for a delay of consideration of the implementation  
24 of the Clarksburg Development Districts is perceived by some people as being mischief.

25 I would just assume, have a process that's very clear, that doesn't lend itself the ability to  
26 influence when decisions are made.

27 I don't see why we can't do that.

28 JENNIFER BARRETT: I'll just try to touch on the point you just made, to move forward  
29 with the financing and development of financing mechanism requires the cooperation of  
30 the developers.

31  
32 You're trying to sell these bonds to investors.

33 They need to have a strong feeling that the development will occur, that the approvals are  
34 all in placed.

35 I mean it's just like when we finance a stand-alone project; we need to know it can actually  
36 happen.

37 We often wait until we actually have a contract ready to be signed and then we negotiate  
38 the price before we issue bonds.

39 Similar here, it has to be a corporate process.

40 So that's why, they do have a role and they can stop us in the process if they refuse to  
41 cooperate.



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1 I don't know if you could put something into the Development District Law.  
2 This would require further discussion that, you know, so, that voluntarily, they agree not to  
3 pull any building permits until the district is formed, until we've gone through the process.  
4 I don't know whether you'll get that cooperation from them, but that's one way of  
5 approaching it is that they agree.  
6 Because they've petitioned, they agree to that condition that you want to put on it.  
7 That's the only thing I've thought of as we're sitting here.  
8 MICHAEL KNAPP: And so, where would you make that modification?  
9 MICHAEL FADEN: It would be in this bill.  
10 It would take a little while to figure out precisely where probably.  
11 .  
12 .  
13 JENNIFER BARRETT: Binding.  
14 MICHAEL FADEN: Before--you have to make it binding.  
15 You probably make it around the time of the Executive's fiscal report or maybe because  
16 we're at the point when the Planning Board has approved the provision on the Article for  
17 Public Facilities, given its provision on the Article of Public Facilities.  
18 JENNIFER BARRETT: At the stop.  
19 MICHAEL KNAPP: Huh?  
20 JENNIFER BARRETT: Maybe at the stop, if they don't move forward.  
21 MICHAEL FADEN: Yeah, a stopping point there.  
22 I mean that is conceivable.  
23 Like we said, the ramifications, we can't project right now.  
24 MICHAEL KNAPP: Councilmember Floreen.  
25 NANCY FLOREEN: Yeah, I absolutely agree with Mr. Elrich about this point in terms of  
26 the timing of things.  
27 And I know that from the finances point of view, the issue of the timing and certainty part  
28 has been, at least, the department, as I  
29 understood it, a critical point.  
30 So, there are a couple of pieces here.  
31 Well, one of it is just, at what point that a property is subject to real estate tax at this new  
32 approval level?  
33 Doesn't it occur when the lots are recorded?  
34 Is that the point at which a tax applies?  
35 JENNIFER BARRETT: The real property tax on the undeveloped land value applies all the  
36 time.  
37 NANCY FLOREEN: Right.  
38 Once it's recorded though, it's associated with that particular lot.  
39 JENNIFER BARRETT: But it's still the land value.  
40 NANCY FLOREEN: Well, does it change?



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1 JENNIFER BARRETT: What we do in the development district is to address that issue so  
2 that undeveloped property pays as if they were developed so actually,  
3 this is a dual tax that we put in here.  
4 This is an Ad Valorem tax based on the assessed value of the real state property--  
5 NANCY FLOREEN: Of the land-- JENNIFER BARRETT: And any improvements.  
6 And a benefit assessment, a special assessment that brings undeveloped lots up to what  
7 the developed lots are paying so that everyone's paying their share.  
8 And the same for the undeveloped commercial, excuse me, that we actually do a special  
9 assessment to make sure that commercial pays their fair share.  
10 Kingwood Village is a good example where there's--it's partially residential, partially  
11 commercial.  
12 The commercial property in there will always pay not only the Ad Valorem tax, but special  
13 assessments so they're paying a fair share.  
14 So, we're.  
15 .  
16 .  
17 MICHAEL FADEN: And that happens from the first day of the development district tax.  
18 It doesn't depend on property being sold to anybody or developed.  
19 JENNIFER BARRETT: We structured it.  
20 You won't have to-- NANCY FLOREEN: But you have to have some at least to apply it to.  
21 So, you have to have something that's.  
22 .  
23 .  
24 MICHAEL FADEN: Well, what can be an open patch of ground to apply it to-- NANCY  
25 FLOREEN: Well, sure.  
26 But.  
27 .  
28 .  
29 JENNIFER BARRETT: Then there's the feasibility issue for issuing the bonds.  
30 NANCY FLOREEN: What I don't know is what is the legal structure of the land to which  
31 this is applied to?  
32 Does it have to have been gone through the final, you know, site plan?  
33 MICHAEL FADEN: No.  
34 NANCY FLOREEN: Machinations, well, so that you know what pieces of land are being  
35 associated with this particular tax, or do you just say .  
36 .  
37 .  
38 JENNIFER BARRETT: You can tax early.  
39 NANCY FLOREEN: At what point can you tax?  
40 JENNIFER BARRETT: Well, under the current law, it wasn't until we issued bonds.  
41 Under these revisions that are before you, you can tax earlier after it's formed.



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1 NANCY FLOREEN: After the district is formed?

2 JENNIFER BARRETT: After the district is formed.

3 And one--some of the provisions in this law to create sub-districts address to some of my  
4 issues where you have such a large development that's occurring over a 12-year period,  
5 we can go ahead and tax and secure bonds on a portion and go forward and then the next  
6 sub-district, we can do these three separate issues secured separately.

7 Right now, we don't have that ability.

8 So, I have to wait until I can secure.

9 .

10 .

11 NANCY FLOREEN: The whole shebang?

12 JENNIFER BARRETT: The whole shebang with all the land.

13 And when you have huge amounts of undeveloped land, you don't have very secure  
14 bonds.

15 NANCY FLOREEN: But you don't have a predictable revenue stream, you're saying?

16 JENNIFER BARRETT: It's a rather large burden on the undeveloped property.

17 NANCY FLOREEN: Will this give you enough certainty as to at what point it would be a  
18 reliable revenue stream within the sub-districts?

19 JENNIFER BARRETT: Well, the idea is to develop the sub-districts at the time we're  
20 bringing forward the second resolution, the format with sufficient certainty that it matches  
21 the development plans on how they

22 plan to proceed with the development, and then you time the bond issues according to  
23 those sub districts and that development occurring where you have that revenue stream to  
24 support it.

25 NANCY FLOREEN: So basically, you would assign this additional tax in advance then of a  
26 building permit?

27 JENNIFER BARRETT: It's just applied to the property for a sub-district all at once.

28 NANCY FLOREEN: Irrelevant, it would be irrelevant.

29 MICHAEL FADEN: Right.

30 NANCY FLOREEN: So.

31 .

32 .

33 MICHAEL FADEN: Once a district is created and you know, the finance department  
34 knows how many housing units it is authorized to create or how much commercial space,  
35 the tax could go forward.

36 NANCY FLOREEN: It could go forward.

37 And frankly, that would actually, you know, be creating an incentive for the project to get  
38 built out as rapidly, quickly as well.

39 JENNIFER BARRETT: Absolutely.

40 Incentive of putting it under.

41 NANCY FLOREEN: You would avoid speculative applications.



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1 And now, I think of White Flint or elsewhere where, you know, it's a gleam in the eye  
2 whenever, not that that's not necessarily the case, but, you know, you want to know that  
3 this is real and meaningful.  
4 So, these changes will give us the tools to make that happen in the future?  
5 JENNIFER BARRETT: We believe so.  
6 NANCY FLOREEN: Yeah, good.  
7 JENNIFER BARRETT: We've done our best to find--to create the tools to help us have the  
8 more certainty and the more profit.  
9 NANCY FLOREEN: So it's really the sub-district part as much as anything, to go at the  
10 point of certainty of number of units.  
11 JENNIFER BARRETT: Changing so we can tax earlier, creating the sub-district concept  
12 are key.  
13 NANCY FLOREEN: Yeah.  
14 Okay, good.  
15 Thank you.  
16 MICHAEL KNAPP: Okay, further questions?  
17 I would just make a comment.  
18 I'll be voting against this because in light of the previous resolutions, I think it's  
19 unfortunately established, a precedent double jeopardy for the two proposed development  
20 districts in Clarksburg so it was already done badly.  
21 We're now going to give everybody a second shot to go back and make sure we really nail  
22 it to the wall a second time.  
23 So I'll be voting, no.  
24 I don't see any additional comments.  
25 Madam Clerk, if you would call the roll.  
26 MADAM CLERK: Mr. Elrich?  
27 MARK ELRICH: Yeah.  
28 MADAM CLERK: Mr. Praisner?  
29 DON PRAISNER: Yes.  
30 MADAM CLERK: Ms. Trachtenberg?  
31 DUCHY TRACHTENBERG: Yes.  
32 MADAM CLERK: Ms. Floreen?  
33 NANCY FLOREEN: Yes.  
34 MADAM CLERK: Mr. Leventhal?  
35 GEORGE LEVENTHAL: No.  
36 MADAM CLERK: Ms. Ervin?  
37 VALERIE ERVIN: Yes.  
38 MADAM CLERK: Mr. Berliner?  
39 ROGER BERLINER: Yes.  
40 MADAM CLERK: Mr. Andrews?  
41 PHIL ANDREWS: Yes.

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1 MADAM CLERK: Mr. Knapp?  
2 MICHAEL KNAPP: No, the legislation carries six votes to three.  
3 That is the end of our work this morning.  
4 We are in recess until 1:30.  
5 I need at least six council members back because we have public hearing and action on  
6 two items that requires six votes at least.  
7 And so, if you have strong feelings, I'll come back because then we may have  
8 disagreement.  
9 Anyway, so be back here about 1:30.  
10 Thank you very much.  
11

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1  
2





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1 MICHAEL KNAPP: Good afternoon, ladies and gentlemen.

2 This is a public hearing and a resolution to amend the County Energy Policy to increase  
3 the share of renewable energy, a timely topic.

4 Persons wishing to submit additional material for the Council's consideration should do so  
5 before the close of business on October 17th, 2008.

6 The Transportation, Infrastructure, Energy and Environment Committee work session is  
7 tentatively scheduled for October 23rd, 2008 at 9:30 A.M.

8 Please call 240-777-7900 for information.

9 Before beginning your presentation, please state your name clearly for the record.

10 We have no speakers on such a timely topic.

11 This concludes this public hearing.

12 Good afternoon, ladies and gentlemen, this is a public hearing on the amendment to the  
13 master plan for Historic Preservation, Individual Historic Resources.

14 The property being considered for historic designation includes stone culverts and railroad  
15 bed, Little Seneca Viaduct, the Burton Log House, Susan B.

16 Chase House and the Seymour Krueger house.

17 Persons wishing to submit additional material for the Council's consideration should do so  
18 before the close of business on November 7, 2008.

19 A Planning, Housing and Economic Development Committee work session is tentatively  
20 scheduled for November 17th, 2008 at 2:00 P.M.

21 Please call 240-777-7900.

22 We have six speakers.

23 Our first two speakers are Royce Hanson, Chair of the Montgomery County Planning  
24 Board, and Timothy Duffy representing Montgomery County Historic Preservation  
25 Committee.

26 Dr. Hanson?

27 ROYCE HANSON: Thank you, Mr. President.

28 I am Royce Hanson, Chairman of the Montgomery County Planning Board.

29 And I'm pleased to appear today to present the Planning Board's recommendations on the  
30 amendment to the master plan for historic preservation for seven individual resources.

31 The Board evaluated these resources on March the 6th of this year.

32 Based on this review, we've recommended that five of them merit designation in the  
33 Montgomery County Master Plan for Historic Preservation.

34 The Board also recommends that two resources that were nominated for the master plan  
35 do not merit designation.

36 The Board draft amendment before you reflects those findings.

37 The Board struggled with the nomination of the Watson house.

38 It's clearly an attractive house and there is much support from the community for its  
39 designation.

40 In the testimony and material presented to the Board, much of the community interest was  
41 focused on the 1.



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1 4-acre setting of the house and its architectural qualities expressive of the Dutch Colonial  
2 style.

3 This testimony while persuasive did not convince the Board that this resource met the  
4 criteria for designation.

5 The Board concluded that this resource does not rise to the level of significance to merit  
6 the individual designation and we voted unanimously to not recommend it.

7 The other resources or the other resource that the Board is not recommending for  
8 designation is the Germantown Presbyterian Chapel.

9 Because of the extent of the alterations that have occurred over time, we found that this  
10 building does not warrant the designation.

11 The Board supports designation of the five remaining resources considered in the  
12 amendment.

13 The three residences recommended for designation were each nominated by their  
14 owners.

15 The Board commends these owners for taking the initiative to record the history of their  
16 properties and to nominate them for historic designation.

17 The other two resources represent the history and construction of the railroad in the  
18 Germantown area and they are not privately owned.

19 The railroad stone culverts are owned by a Homeowners' Association which has not  
20 objected to the designation and the Little Seneca Viaduct is owned by two entities, the  
21 Parks Department and the Sanitary Commission.

22 The Parks Department has supported designation and the Sanitary Commission has not  
23 objected.

24 Thank you for the opportunity to support this and we're glad to bring you designations that  
25 are supported, not only by us, but by the owners.

26 MICHAEL KNAPP: We like that, too.

27 We thank you and appreciate that as well.

28 Mr. Duffy?

29 TIMOTHY DUFFY: Good afternoon.

30 For the record, I'm Timothy Duffy, a member of the Historic Preservation Commission.

31 I'm pleased to appear today to present the HPC's recommendation on the amendments to  
32 the master plan for Historic Preservation for seven individual resources.

33 The HPC evaluated these resources at meetings on December 19th, 2007 and January 9,  
34 2008.

35 Based on this review, we've recommended that five resources merit designation in the  
36 Montgomery County Master Plan for Historic Preservation.

37 The HPC also recommends the two resources that were nominated for the master plan do  
38 no merit designation.

39 The HPC recommendations are in agreement with the Planning Board recommendations  
40 found in the Planning Board draft amendment before you.



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1 Two of the resources recommended for designation are currently on the locational atlas  
2 and index of historic sites and are being considered as part of the Germantown master  
3 plan update.

4 The Little Seneca Viaduct and the stone culverts are both representative of the early days  
5 of the railroad Montgomery County.

6 These two resources include features that represent the engineering accomplishments of  
7 the day, viaduct remains, stone riprap walls and the stone culverts.

8 And both resources include the original single-track railroad bed which was later  
9 abandoned when the lines were double-tracked and straightened.

10 The HPC also recommends designation of three single family residences that represent  
11 three different eras; settlement period, streetcar era and mid-century modern.

12 The Burton house is a log house built in 1800 and expanded in about 1850.

13 The residence represents the settlement of eastern Montgomery County and is associated  
14 with the Burton family who founded Burtonsville.

15 The HPC found that this resource has a potential for archeological evidence.

16 Next, the Susan B.

17 Chase House built in 1903 to 4 is highly representative of the community of Drummond  
18 and was built in the first year of--that the streetcar subdivision was established.

19 Finally, the Seymour Krueger house is an international sell house designed by Marcel  
20 Breuer, an internationally recognized architect.

21 Built in 1958, the Krueger House was one of four residential buildings in the state  
22 designed by Breuer and it features the collaborative work of the distinguished landscape  
23 architect Dan Kiley.

24 The Krueger House was recently recommended for National Register Designation by the  
25 HPC and also by the Governor's Consulting Committee.

26 The HPC commends the honors of all three residences for the stewardship of their  
27 properties and for nominating them for protection under the preservation ordinance for the  
28 benefit of the future generations.

29 There are two residences under consideration which were nominated by citizen groups.

30 The first of these is the Germantown Presbyterian Chapel.

31 MICHAEL KNAPP: If we get the rest of your testimony, there may be some questions, so.

32 TIMOTHY DUFFY: Okay.

33 MICHAEL KNAPP: Let's see if there are any questions.

34 MARC ELRICH: Yes.

35 MICHAEL KNAPP: Councilmember Elrich.

36 MARC ELRICH: Regarding the Watson house in Silver Spring.

37 TIMOTHY DUFFY: Yes.

38 MARC ELRICH: What's the nature of the debate over the value of the resource--I mean,  
39 well, the arguments seems to be that this is unique and unlike the other Dutch colonials.

40 TIMOTHY DUFFY: Yes.

41 That was one of the arguments put forth.



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1 There was also an argument about-- there were a number of arguments put forth for  
2 supporting designation.  
3 That was one of the primary arguments.  
4 I think the historic preservation office staff in their staff report did a good job of indicating  
5 that there are other good examples of Dutch colonial in the county.  
6 And I would simply remind the council that what we're talking about is an individual  
7 designation to the master plan for historic places in the county.  
8 The HPC was I think unanimous.  
9 There was certainly consensus that we're in an historic district, it certainly would merit  
10 designation as probably an outstanding resource at least in contributing or probably--an  
11 outstanding.  
12 There is no question of its value.  
13 But of course an individual designation of the master plan requires that we apply more  
14 stringent standards and our consideration was that there other--to put it simply, the  
15 historic district, so to speak for an individual designation is the entire county.  
16 There isn't really a district other than the entire county.  
17 There are other high quality examples of Dutch colonial in the county and so the  
18 commission considered that that was not a sufficient argument for individual designation.  
19 There were a couple of others which I'll try to state briefly by memory as best I can.  
20 One was--there was an argument made that the setting was unique, and the commission  
21 certainly recognized that it's a lovely setting.  
22 That--but that in and of itself also we felt did not merit individual designation, didn't rise to  
23 the level.  
24 There was also--there were arguments made about the historical significance of the  
25 original owners and their business activities and development in Montgomery County.  
26 And I think the staff report also demonstrates pretty well that the historical significance of  
27 that is not great.  
28 And the last item that I recall was an argument that it represented a unique period of  
29 development in the county for which there are not other similar examples and the  
30 commission was unconvinced about that.  
31 It was part of the early suburban development of the county, and we didn't see it as  
32 adequately unique to be individually designated.  
33 MARC ELRICH: So, if I were to look at the other examples of Dutch colonials, you would  
34 argue that they're more representative and more intact than this one is?  
35 This is not the best representation of Dutch colonial?  
36 TIMOTHY DUFFY: I would argue that not necessarily that there are others that are more  
37 representative and more intact.  
38 This one is in good condition.  
39 And it is, I would say it's similar to the others.  
40 I think there are others that are at least equally representative and at least in as good  
41 shape, perhaps better, and that, that type of Dutch colonial architecture of that era is



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1 relatively well represented by existing houses in the county that are designated for historic  
2 preservation.

3 MICHAEL KNAPP: Okay.

4 I see no further questions.

5 And this concludes this panel.

6 Thank you very much.

7 TIMOTHY DUFFY: You're welcome.

8 MICHAEL KNAPP: Our second panel includes Wayne Goldstein representing  
9 Montgomery Preservation Inc.

10 , Mark Farr speaking as individual, Jim Cassell speaking as individual, and Mary Jane  
11 Checchi speaking as an individual.

12 Mr. Goldstein is our first speaker.

13 WAYNE GOLDSTEIN: I am Wayne Goldstein, President of Montgomery Preservation, Inc.  
14 MPI, here to briefly testify about Watson house and the historic designation process with  
15 more detailed information to follow.

16 Historic designation is a fact-finding process.

17 Nominations must provide the factual history of the property including those who live  
18 there, supported by deeds, obituaries and other factual sources.

19 It is a process that begin with the passing of the National Historic Preservation Act of 1966  
20 which created the National Register of Historic Places and the process for establishing  
21 criteria to add properties to it.

22 The State of Maryland passed the article 5A that established the Maryland Historical Trust  
23 in 1961 and authorized the Trust to "adopt regulations, specifying procedures and  
24 eligibility standards for including properties in the Historic Register".

25 " It also added sections 7-108 to article 28 which gave Park and Planning Commission the  
26 authority to add historic resources to the master plan "provided that the criteria for the  
27 designation or identification is not inconsistent with the criteria applicable to the Maryland  
28 Historical Trust under Section 5A-323".

29 " Montgomery County passed Chapter 24A which established the Historic Preservation  
30 Commission in 1979 which included Section 24A3 which listed the nine criteria that  
31 Planning Board shall apply and considering historic designation.

32 While the criteria of historic designation that flow from the Federal, to the State, to the  
33 County level do not have the same force of law, that regulations, such as the Clean Water  
34 Act have, once the jurisdiction voluntarily agrees to be bound by its historic designation  
35 process and its criteria, it also agrees to follow the same fact-based analysis for a local  
36 historic nomination as is required for a National Register Nomination.

37 With the Watson house designation process, the law has not been followed.

38 Neither Historic Preservation Staff, the Historic Preservation Commission, HPC, or the  
39 Planning Board have engaged in an objective fact-based examination of Watson House.

40 Based on my ten years of observation, the HPC and its staff are among the best in the in  
41 the county.



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1 However, everyone makes mistakes, and they have done so with Watson house.  
2 The Planning Board simply rubber stamped their recommendation without any real  
3 discussion.  
4 As you will learn, Watson house clearly meets several criteria.  
5 It is the most intact Dutch colonial with a Dutch kick in lower Montgomery County, if not  
6 the entire county.  
7 Examples given or vague claims made of better Dutch colonials by the HPC and its staff  
8 are not supported by any facts.  
9 I would like to see the list that was alluded to by one of the previous speakers.  
10 In coming months, I will appear before you to highlight the professional fact-based  
11 investigations and recommendations for designation of other properties made by the HPC  
12 and its staff.  
13 It's only for Watson house that MPI makes this claim of arbitrary and capricious behavior  
14 by the HPC and its staff.  
15 I also look forward to providing information about the sort of dynamic relationship between  
16 the fifth and tenth amendments of the U.S.  
17 constitution for your benefit.  
18 Thank you.  
19 MICHAEL KNAPP: Do you have a written copy?  
20 WAYNE GOLDSTEIN: That is the one.  
21 MICHAEL KNAPP: Okay, all right.  
22 That would be fine.  
23 That's fine.  
24 I just want to make sure we have it.  
25 Okay.  
26 Mr. Farr?  
27 MARK FARR: I'd like to speak to you today.  
28 My name is Mark Farr.  
29 And I'm a member of the Woodside Forest Civic Association.  
30 In my professional life, I'm Senior Director of the Points of Light Foundation, one of the  
31 largest non-profits in the country.  
32 But I speak today as the owner of--one of the--of the Wilbur House, one of the three core  
33 properties of the Woodside Forest neighborhood which we're talking about; the other two  
34 being the Watson House and the Condict House.  
35 These three houses are built in a line just yards apart with the Watson house right in the  
36 middle.  
37 And as you know, the house, the Watson House was built for the daughter of the owner of  
38 the Condict House and the Watson House was built and then lived in by the--by people  
39 who lived in my house first.  
40 They're all of a piece.



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1 And it's my argument today that if you just take one piece right at the very core of this  
2 piece of land and say this is not historical, you're missing the point.  
3 It is these three houses together if you come and see the site that matters plus the  
4 beautiful surrounding land around it.  
5 Others in our group will offer technical knowledge.  
6 My view is as a lay community member and as a passionate supporter of the preservation  
7 of existing urban green space and the history of community which is written in their  
8 buildings.  
9 The Watson House and its surrounding land constitute each of these.  
10 It is a beautiful, calm, and built space.  
11 It forms the central core of the Woodside Community which curves around these three  
12 buildings.  
13 It's impossible to miss the sense of age and history in this space if you come to it.  
14 It has beautiful old trees which may not be champion, but they are beautiful.  
15 And the heart of this community is centered on these three houses.  
16 In their history and for historical reasons, the central building was never designated.  
17 This is crazy.  
18 The three houses on the unbroken land between them is a single unit, both in their history  
19 and their citing.  
20 I'll ask you to imagine how we would feel if some edifice that forms a clear landmark  
21 connected to another landmark in your own community was threatened with demolition.  
22 You, like our community, would be up in arms. Who will protect this place?  
23 Once it is gone, it is gone.  
24 I ask you to imagine how it would feel.  
25 The Watson House should be designated like its sister buildings on either side of it, mine  
26 and the Condict House on the master plan as one single site with a character.  
27 However, unusually and unlike other communities, I've known in these situations who  
28 usually call for a moratorium on development; I and we are not against change.  
29 We want to meet the owners more than halfway and we understand that their prime  
30 reason is economic development.  
31 We want them to succeed.  
32 There are ways in which we must act to both preserve the history and character of the  
33 land, but equally protect the current owners who are exactly like me at the Wilbur House  
34 and you as the council are stewards of that history for future generations.  
35 We are open to the building of new properties around the Watson house and the space  
36 and to the development of the space.  
37 Indeed, we have already conceded almost all their reasonable wishes in terms of their  
38 primary goal to develop houses.  
39 We want them to succeed because in that way, we will succeed.  
40 We simply ask that instead of raising the Watson house and starting again with another  
41 building just like it built in the same place.



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1 We go for with the simple principles in mind and I have listed them and you got them in  
2 front of you, but now my time has run out.

3 Thank you.

4 MICHAEL KNAPP: Thank you very much.

5 Mr. Cassell?

6 JIM CASSELL: My name is Jim Cassell.

7 I am a member of the Woodside Forest Civic Association and the committee to save the  
8 Watson house.

9 For several years now, I and numerous others in my area of Silver Spring had been  
10 advocating for the placement of the Watson house on the master plan for historic  
11 preservation.

12 What will happen if the council does not take the appropriate action to save this largely  
13 unaltered Dutch colonial perched on a hill on about an acre and a half of land and  
14 surrounded by very old tree canopies and a beautiful stone wall?

15 It will take less than a handful of years I think for people in the county and not just the  
16 preservation-minded to deeply regret a lost opportunity.

17 The community will lose an architectural treasure.

18 The Watson House is the best example of Dutch Colonial revival architecture in  
19 Montgomery County.

20 And you don't have to take my word.

21 In testimony at the previous hearings and then the short Q&A that has been distributed,  
22 read the summaries of what architects and historians have said about Watson House.

23 The community will lose a tangible symbol of prominent families that made great  
24 contributions to the region.

25 Built by James Angus Watson in 1915, the Watson House sits between two houses listed  
26 on the master plan, the Condict house built in 1852 and the Wilbur House built for Dr.  
27 Condict's daughter, Eliza Condict Wilbur in 1887.

28 Robert Clement Watson lived in the Watson House before establishing residency in the  
29 older Wilbur House next door.

30 His parents built the Watson House during the family's rise to prominence and their house  
31 continued to be the centerpiece of the family compound until 1954.

32 The community will lose the third element in a significant historical narrative.

33 These three houses, a stone's throw from one another, span the pre-Civil war, late  
34 Victorian, and early 20th century periods and illustrate to future generations an important  
35 part of Silver Spring history.

36 The community will lose an open forested area with Civil War significance.

37 The land that includes the Condict, Watson and Wilbur houses, a short walk from Sligo  
38 Creek, remains one of the largest relatively undisturbed pre-Civil War properties and has  
39 recently been recognized as a probable site for a Confederate encampment during  
40 General Jubal Early's attack on Washington.

41 This is not a NIMBY issue.





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1 Indeed, we support additional houses on this site and the owner's understandable desire  
2 to reap financial benefit from the sale of the property and we have made this clear to the  
3 opposing party.

4 This is not a win-lose scenario, us versus them.

5 Rather, there is the potential here for a win-win-win in which all parties benefit, the owners  
6 who will gain from the sale of the land, the Woodside Forest neighborhood that will gain  
7 preservation of the third house in a linkage of three historic houses in a site that is  
8 developed with an eye to history and on the basis of sound land use principles.

9 The third and the entire Silver Spring community will be rewarded with the visible and  
10 permanent reminder of more than a century of its history.

11 MICHAEL KNAPP: Thank you.

12 JIM CASSELL: I urge the council to place the Watson House on the master plan for  
13 historic preservation.

14 Thank you.

15 MICHAEL KNAPP: Miss Checchi?

16 MARY JANE CHECCHI: My name is Mary Jane Checchi.

17 MICHAEL KNAPP: Press that button in front of you.

18 Thank you.

19 MARY JANE CHECCHI: Thanks for the opportunity to speak.

20 In 1956, my parents bought a house at 1015 Dale Drive.

21 About 10 years later, Watson Road was constructed and the address was changed to  
22 9206 Watson Road.

23 There are a number of factual errors in the nomination and also factual errors in some of  
24 the comments made today so I really appreciate it if you have an opportunity to look  
25 through some of the testimony in the packet presented to you.

26 I am not certain if my parents had ever heard of the Watson family.

27 I had never nor anyone of my family ever heard of our home referred to as the Watson  
28 house until about 18 months ago.

29 After we filed an application for subdivision, this nomination was presented.

30 My parents certainly would have been shocked.

31 As I said, we've never discussed the Watson family and they didn't treat the home as a  
32 model of historic architecture.

33 Without a second thought, they demolished the two-car garage.

34 There are numerous alterations to the outside of the house including a room that was built  
35 on the back of the house before they purchased it.

36 The Watson family, no matter how many times it's called notable or famous or important,  
37 that's really not the case.

38 Mr. Watson was a lawyer, apparently a successful one, but his law firm did not survive.

39 He did not pen any famous text book or treatises that we have heard of.

40 He lived there in that house for a total of nine years.



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1 His heirs eventually after he passed away sold off pieces of the property and other people  
2 built houses on it.  
3 That is not an unusual, notable or extraordinary story.  
4 The Dutch colonial style, the nomination itself states was called wildly popular in America  
5 at that time.  
6 Numerous houses of that very same style were built during that period in Woodside Park,  
7 in Silver Spring, in Takoma Park, in Chevy Chase, and all over Montgomery County.  
8 Our house is not a particularly notable, unique or high-style Dutch colonial.  
9 It's uninhabitable.  
10 It's in very, very, very bad condition.  
11 Despite what the nomination says, there was no landscape plan that we ever heard of or  
12 knew of.  
13 Neither of my parents were gardeners, and sadly during the past 25 years, the yard and  
14 trees have not been cared for and that's unfortunate, but I was not living there at the time.  
15 My parents lived there until their deaths in 2005-2006.  
16 The property was subject to review in 2000 during the north and west Silver Spring master  
17 plan review when these two other houses that were mentioned were carefully reviewed.  
18 Although it's not true that you can see all three houses, they are not related.  
19 Architecturally, they  
20 were not built by the same builder.  
21 They have no historical connection and they do not create a coherent visual plan.  
22 Our house at that time failed to pass the threshold for either recommendation or  
23 consideration by the Planning Board.  
24 It is not presently and never was included on the locational atlas.  
25 Thank you so much for your time.  
26 MICHAEL KNAPP: Thank you very much.  
27 MARY JANE CHECCHI: And we certainly have been open and remain committed to  
28 discussions with the neighborhood.  
29 MICHAEL KNAPP: Thank you.  
30 Councilmember Elrich?  
31 MARC ELRICH: I think there is a rather high bar to demonstrate that this house has  
32 historically significant.  
33 I invited recommendations from the HBC, and I think the question comes down to can you  
34 demonstrate that this--the features of this house are unique.  
35 There are other houses on the list that you referred to.  
36 And it can't be, you're telling me that it's unique.  
37 I mean if you cannot demonstrate with pictures that there is something about this which is  
38 unique and different than everything else, then it becomes strictly a matter of judgment,  
39 and I'm not prepared to reverse the HBC much as I think, for any number of reasons that  
40 the house ought to be preserved and someone encouraged that the owner doesn't



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1 necessarily indicate that not getting designation means that the house would be knocked  
2 down.  
3 So, I understand that, you know, and I've talked with some of you that you can envision  
4 five houses on that lot including the existing one and for others and Park and Planning  
5 also said that the work on the five-lot subdivision was not like you're asking for any less to  
6 be done there, but you're asking us for historic designation.  
7 I think to do that you have to demonstrate that the HPC was wrong.  
8 And other than what you all said, you haven't done it.  
9 WAYNE GOLDSTEIN: Is there a question there?  
10 MARC ELRICH: Yeah, pictures.  
11 WAYNE GOLDSTEIN: So, I'll try to answer it.  
12 MICHAEL KNAPP: There really wasn't any question.  
13 He was just kind of indicating.  
14 MARC ELRICH: I want to know if they had anything to demonstrate that?  
15 WAYNE GOLDSTEIN: Well, I was informally given some addresses which I went and  
16 looked at, and none of them are in my judgment come close.  
17 The chair for the representative of the Historic Preservation Commission talked about  
18 other Dutch colonials.  
19 I would like to see that list.  
20 I will be glad or colleagues would be glad to go out and put together photographs to show  
21 the difference.  
22 The key feature that makes this Dutch colonial unique is what's called the Dutch kick  
23 which is where the roof line sweeps out over the eaves.  
24 I've only seen two in lower Montgomery County that have a Dutch kick, and both of them  
25 are very altered and/or more recent so they don't come close in terms of this being the  
26 best example of that and the best example of a Dutch colonial of that era which is really  
27 early on.  
28 So, I'll find the list, the informal list that I was given.  
29 I look forward to seeing the formal list that represents the proof that there are better  
30 examples, and then present it to the full council or to the fed committee for your own  
31 objective evaluation, and any other information that you need.  
32 MICHAEL KNAPP: Any additional information, if we got it by November 7th, the  
33 committee is going to take it up on the 17th.  
34 So, if we get by 7th, then our staff has the time to actually do something with it and try and  
35 formulate a packet.  
36 Councilmember Leventhal?  
37 GEORGE LEVENTHAL: Well, the question's been partially answered but I just want to  
38 clarify.  
39 Wayne, your assertion all has to do with the architecture of this Dutch colonial home, am I  
40 right?



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1 You're not asserting that Mr. Watson was an especially important figure or that there was  
2 a Civil War encampment on the property or any of the other claims that Miss Checchi  
3 disputed?  
4 Your assertion is on the basis of this home has an outstanding example of Dutch colonial  
5 architecture?  
6 That is the basis for which you think it should be placed on the historic register?  
7 Is that correct?  
8 WAYNE GOLDSTEIN: No, but if Councilmember Elrich reflects the view of the majority  
9 that all you need is evidence that it's, you know.  
10 GEORGE LEVENTHAL: No, I'm not--sometimes Mr. Elrich does.  
11 WAYNE GOLDSTEIN: But no, I intend to.  
12 GEORGE LEVENTHAL: Sometimes, he doesn't.  
13 My question to you is in your testimony.  
14 WAYNE GOLDSTEIN: Yes, I've noticed that.  
15 GEORGE LEVENTHAL: Right.  
16 In your testimony, you emphasized that this was the best example of Dutch colonial  
17 architecture with this Dutch kick feature.  
18 And so, I mean--we're trying to make a wise decision here.  
19 I also went to visit the property, and I was happy to meet my constituents who lived in  
20 Woodside Forest and I don't really have questions for them because I certainly  
21 understand their views.  
22 Reverend Forest said how would you feel.  
23 And this wasn't really about feelings, but I respect their feelings, and so I don't really have  
24 questions with them.  
25 You're here as the representative of Montgomery Preservation and your testimony  
26 emphasized the Dutch colonial architecture.  
27 You did not emphasized the other points which Ms. Checchi disputed that assertions  
28 have been made about Mr. Watson's historical significance and about some Civil War  
29 connection to this home which was built in 1915.  
30 So, I'm trying to understand are we zeroing in on the point that you believe is the most  
31 significant which is the Dutch colonial architecture?  
32 Is that the critical point in your judgment?  
33 That's what you emphasized in your testimony.  
34 WAYNE GOLDSTEIN: In the brief three minutes I had, I chose two issues to focus on  
35 which is why I said more detailed information will follow which will include the importance  
36 of the Watson family.  
37 One thing I'll share with you today is Wild Acres nomination will be coming to you in the  
38 coming months.  
39 This is the former Grosvenor Mansion.  
40 Everyone agrees.  
41 GEORGE LEVENTHAL: Can we talk about the Watson house, please?



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1 WAYNE GOLDSTEIN: Well, let me--this is related.  
2 And the discussion on that was it is a country estate.  
3 GEORGE LEVENTHAL: I think it's out of order.  
4 MICHAEL KNAPP: That's okay really.  
5 WAYNE GOLDSTEIN: But what I wanted to focus on is.  
6 MICHAEL KNAPP: You're going to have a chance.  
7 Believe me.  
8 We're doing more on historical discussion over the course of the next month.  
9 JIM CASSELL: Can I respond to the questions?  
10 MICHAEL KNAPP: To which?  
11 JIM CASSELL: Both, actually.  
12 I think.  
13 MICHAEL KNAPP: Mr. Leventhal, do you?  
14 GEORGE LEVENTHAL: I don't mind, sure, I don't need to.  
15 I appreciate the neighbor's viewpoint, believe me.  
16 I do understand.  
17 JIM CASSELL: I know you do, and I appreciate the fact that you came.  
18 You know, I think that it isn't just about--I mean it would be interesting.  
19 I would like to know whether all the houses in Montgomery County that has been put on  
20 the master plan are the best examples of those architectural styles.  
21 I mean, you know, can you say that they are the best examples?  
22 They're terrific examples.  
23 Now, I mean we believe that the Watson house is probably the best example of a Dutch  
24 colonial, okay, and we're going to go ahead and do even more of the research that we've  
25 been doing over the last two years to provide that with you.  
26 But it goes beyond, I think, just the architecture.  
27 It is the character of the site.  
28 It is the fact that it is between two other historical houses, a pre-Civil war house, a late  
29 19th Century Victorian house, three houses in juxtaposition to one another.  
30 And the history of that area, okay, that's what we are talking about, the entire package.  
31 It isn't, you know--if you come out and you see it, I think you would appreciate what we are  
32 talking about.  
33 So, I mean yes, is it the best example?  
34 I would argue that it probably is.  
35 But even if it weren't, again I would ask you, is every house that is on the master plan--is  
36 every house the best example of that architectural style?  
37 GEORGE LEVENTHAL: Well, I have a question for Ms. Checchi.  
38 The question that we face though in response with what you said is every old house  
39 historically significant and that's--I don't know if we have the answer to that; but let me ask  
40 Ms. Checchi this.  
41 .



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1 .  
2 MARY JANE CHECCHI: I am not sure the code uses the word best.  
3 I think it uses the word unique.  
4 The regulation itself.  
5 GEORGE LEVENTHAL: Yeah.  
6 So, let me ask you this, Ms. Checchi.  
7 I mean for where I sit, the discussion of historicity is one issue here.  
8 The understandable desire of neighbors to retain the character of the neighborhood is  
9 another issue here, clearly, and your desire to maximize the value of your asset, also very  
10 understandable.  
11 So, there's some very clear issues here that are being played out.  
12 We see them all the time.  
13 They're very common, very common.  
14 So, the best outcome for us is one that doesn't leave any of our constituents mad at us.  
15 That's ideal, but rare.  
16 MARY JANE CHECCHI: As a political family, as a member of a highly political family, I  
17 fully understand.  
18 GEORGE LEVENTHAL: From my perspective.  
19 Let's get my interest out on the table.  
20 MARY JANE CHECCHI: I fully understand.  
21 GEORGE LEVENTHAL: Right.  
22 So, is that possible?  
23 Is there a happy outcome?  
24 MARY JANE CHECCHI: I have a very, very, very, very clear answer which from the  
25 beginning we've stated.  
26 We feel that the issues that have been raised here over and over again for the record, in  
27 oral testimony and submissions, are really suited to being handled in the subdivision  
28 process.  
29 They're really not about the historical nature of this house.  
30 So, yes, I mean absolutely.  
31 I mean I don't see why it can't be discussed and resolved; but if it's declared a historic  
32 property which is the goal of.  
33 GEORGE LEVENTHAL: And that gives substantial leverage to one side of the other  
34 argument about the use of property.  
35 MARY JANE CHECCHI: Then there's--then what's left to discuss?  
36 Not a heck of a lot.  
37 So yes, and yes, we have been very open to that.  
38 GEORGE LEVENTHAL: Okay, but the problem from where I sit, just--and this would be  
39 my last point, Mr. President, is that either side in this neighborhood dispute over land use  
40 seeks either the acceptance or the denial of historic designation as leverage for its side of  
41 the land use.



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1 MARY JANE LEVENTHAL: No, sir.  
2 I'm sorry.  
3 I do not really--I don't think the house is historic.  
4 I don't think it ever was and I don't think anyone ever cared about that until it became  
5 possible that some building could occur there.  
6 I don't want any leverage over anyone.  
7 I just don't think the house is a historic house, and I never wanted to do anything to the  
8 neighborhood that was detrimental, or to upset the neighbors although I do understand  
9 that change can be very threatening, but I think the concerns that they've talked about,  
10 about open space and trees, all have to do with what is discussed in the subdivision  
11 process.  
12 And excuse me, I just want to mention, the Civil War history is so speculative here.  
13 There isn't a shred of evidence.  
14 When my father passed away, we donated 3,000 books to the University.  
15 GEORGE LEVENTHAL: Yeah, I've read, I read your testimony.  
16 MARY JANE CHECCHI: You know, Takoma Park is all hills; and Jubal Early could have  
17 camped on anyone of them.  
18 GEORGE LEVENTHAL: With respect for my constituents who live in the neighborhood, I  
19 must point out that it is hard for me to envision how a house constructed in 1915 played  
20 an important role in Civil War history.  
21 MARY JANE CHECCHI: Yeah.  
22 But, excuse me, I don't--just to use historic preservation as a tool in the subdivision  
23 process, I mean, what I've learned is that one could pick out almost any house and file a  
24 petition and say this house has a big yard, their house is of this age and older throughout  
25 this county in Gaithersburg, Kensington, Silver Spring, Takoma Park, Potomac.  
26 And to make the argument, well, we want that big yard to stay a big yard, so let's decide  
27 the house is historic.  
28 And I think that's what really kind of shocked me about the process.  
29 MICHAEL KNAPP: Mr. Cassell, do you-- GEORGE LEVENTHAL: I would just renew my  
30 plea, if there's some happy outcome.  
31 If that would be, wouldn't that be nice?  
32 MARY JANE CHECCHI: I could not agree with you more.  
33 GEORGE LEVENTHAL: If all parties with issues at stake here could end up feeling like  
34 there was a good outcome when we're all done.  
35 MARY JANE CHECCHI: I would be thrilled.  
36 GEORGE LEVENTHAL: Wouldn't that be nice?  
37 MARY JANE CHECCHI: I would be thrilled that we would not have to put the County  
38 through this process for the past years.  
39 I'm happy to talk about.  
40 MICHAEL KNAPP: And I would encourage people to have that conversation.



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1 We had that similar situation at a property in northern Montgomery County which by  
2 getting the property owner and the community together over many meetings but--there  
3 were many meetings, the COMSAT property in which I think we actually got to a  
4 successful outcome which did not require historic designation but we'll ultimately get to, I  
5 think achieve what the community was hoping which was some preservation of a portion  
6 of the site for community use while at the same time allowing for the developer to move  
7 forward and do what they needed to on that parcel as well.

8 And so, I think it took us awhile, but we got there.

9 And so I would--there is precedence for trying to have that kind of conversation getting to  
10 reasonable outcome.

11 MARY JANE CHECCHI: I am all for it.

12 MICHAEL KNAPP: Mr. Elrich, last comment on this?

13 MARC ELRICH: I have a question for Mr. Zyontz.

14 Would historic designation interfere with the ability to subdivide the rest of the property if  
15 what's designated is the building rather than assumptions about the whole site?

16 JEFF ZYONTZ: Generally, it's your practice to designate a historic area around it.

17 Within the area and the house, the HPC would have to approve permits for construction  
18 within that area of the site.

19 So, it's really rare that you would just designate the house and nothing else.

20 MARY JANE CHECCHI: The location of the house would greatly affect everything else.

21 MICHAEL KNAPP: Okay, it looks like we're going to have a lively conversation when this  
22 comes to the committee on November 17th.

23 It seems to be the case with the historic designation activity.

24 Thank you all for your questions.

25 Thank you all very much for your testimony, and I appreciate it.

26 This concludes this public hearing.

27 We now turn to--let's see--agenda item #10.

28 Good afternoon, ladies and gentlemen, this is a public hearing, an expedited Bill 31-08,  
29 grants Council review that would require the chief administrative officer to notify the  
30 Council before certain applications for Federal, state, or private funds are submitted,  
31 require Council approval before the county government applies for certain Federal, state,  
32 or private funds, and generally amend the law governing application for and receipt of  
33 external funds.

34 Persons wishing to submit additional material for the Council's consideration should do so  
35 before the close of business on October 16th, 2008.

36 And management of fiscal policy work session is tentatively scheduled for October 20th,  
37 at 9:30 AM.

38 Please call 2407777900 for information.

39 And I know that council members have some questions.

40 Just having a preview of the testimony, I will let Mr. Beach go.





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1 I also recognize that we are going to have a work session on the 20th at the MFP  
2 Committee and so rather than getting into a long discussion with Mr. Beach here today,  
3 which I think his testimony will beg a number of questions, recognize we can do that in the  
4 work session.

5 Go ahead, Mr. Beach.

6 JOE BEACH: Thank you.

7 Good afternoon, Mr. Knapp, the members of the Council.

8 I'm Joseph Beach, director of the Office of Management Budget.

9 I am here to testify in behalf of County Executive Isiah Leggett in opposition to expedite  
10 Bill 31-08 that would require Council approval before the Executive or any Executive  
11 Branch employee who applies for a Federal, state, or private grant.

12 The County Executive does not oppose the information requirements of expedited Bill 31-  
13 08.

14 Indeed, for the last two years, the Annual Council budget resolution has required the CAO  
15 to provide the Council with notice when the Executive Branch department will apply for a  
16 new state or Federal grant meeting certain thresholds.

17 We have complied with the provisions of this resolution since its inception.

18 And this arrangement has worked well for both the Council and the executive.

19 We're also open to continue working with the Council to develop other means of keeping  
20 the Council and your staff up to date on grant funding opportunities, applications, and  
21 other related challenges.

22 However, for several reasons I will discuss, we oppose the remaining portions of this  
23 legislation which require the Executive to seek the prior approval of the Council for  
24 applying for a grant.

25 First and most importantly, based on the County Attorney's review of the subject  
26 legislation, we believe it is not consistent with the charter separation of legislative and  
27 executive powers.

28 The County Executive will find it very difficult to implement a law that the county attorney  
29 has advised him is a violation for the county charter.

30 Second, some of the specific requirements of this legislation, even if valid, would  
31 effectively prohibit or unduly delay the executive branch from applying for certain grants  
32 because the time constraints imposed are not consistent with the deadlines contained in  
33 many grant applications.

34 Third, the application of this law could significantly reduce availability of non-tax supported  
35 funding to support our common priorities for health and human services and public safety.

36 Fourth, this legislation is not necessary because the County Council already has a power  
37 to reject any grant that it believes is not affordable or consistent with its funding priorities.

38 The legal issues can be discussed in more detail in the committee work session on the  
39 20th, but as a county attorney review indicates, applying for a grant is an Executive  
40 Branch function since it is done pursuant to the implementation of existing law.

41 Applying for a grant does in no way constitute the legislative function of creating a law.



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1 Another troubling feature of

2 this legislation is requiring notification of the Council 30 days before the grant application  
3 is submitted.

4 In recent years, the time between grant funding announcements and submission  
5 deadlines has been reduced requiring departmental, subject experts, preparing grant  
6 submissions, the Office of Management and Budget, and the County Executives to work  
7 very closely so the submissions are transmitted on time.

8 Because of the tight time requirements for many grant applications, this may prevent  
9 many departments from even seeking Council approval for grants since the deadline may  
10 be less than 30 days the department became aware of the grant after the Council  
11 imposed deadline, has passed, or the already difficult grant process has been further  
12 complicated by this additional time consuming requirement.

13 The practical outcome of this requirement is that the county will have less non tax  
14 supported funding available for its priorities and will be there have to defer addressing  
15 those priorities or have to use tax-supported funds to advance its priorities, and you have  
16 the rest of my testimony.

17 MICHAEL KNAPP: Sure.

18 Thank you.

19 Council Vice President Andrews.

20 PHIL ANDREWS: Thank you, President Knapp.

21 Well, in a county of one million people, I know that one person at least would oppose the  
22 legislation.

23 Say it ain't so, Joe.

24 JOE BEACH: More than one.

25 PHIL ANDREWS: We're trying to help you.

26 You're the Director of the Office and Management and Budget.

27 We're trying to help you save money.

28 JOE BEACH: That's our view.

29 PHIL ANDREWS: The legislation is carefully crafted to refer to new obligations, not  
30 implementation of existing obligations.

31 And it specifically refers to new county matches about the large amounts that are required  
32 or new positions that would be added.

33 The reference and the comparison that was made in the argument from Mark Hanson,  
34 that this is analogous to a County Executive leasing a property to house existing  
35 employees is just not a reasonable comparison because this is about new obligations that  
36 the Council would have to fund, new positions that would be added to the county  
37 government.

38 And so it's very much in the Council's bailiwick to decide what the county can undertake in  
39 terms of the fiscal obligation.

40 Look, you know, in terms of the argument that we might be passing money up, you



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1 know, there's that old question, when is a bargain not a bargain and it's not a bargain  
2 when you couldn't afford purchasing the good or service in the first place.  
3 And it's up to the Council to determine whether we can afford to have the hands of the  
4 county effectively tied by applications that are submitted by the County Executive that  
5 have a very long tail in terms of funding obligations, sometimes, in the millions of dollars  
6 over a period of years as we have seen recently.  
7 And so, I guess, in short, our lawyer disagrees with your lawyer and he's right.  
8 MICHAEL KNAPP: Perhaps they can do lunch and resolve.  
9 Councilmember Floreen?  
10 NANCY FLOREEN: I was just going to ask Mr. Faden to confirm that point, but I guess  
11 the point's been made.  
12 You.  
13 .  
14 .  
15 MICHAEL KNAPP: Aren't you right?  
16 Isn't that so?  
17 NANCY FLOREEN: You would agree with you not, Mr. Faden, that we have the--this  
18 would not be a violation of the charter?  
19 MICHAEL KNAPP: No, I don't think it would be.  
20 NANCY FLOREEN: Thanks.  
21 So, Mr. Andrews is once again correct.  
22 MICHAEL KNAPP: Okay, well, good.  
23 We might as well--I think this should be a fun show.  
24 Bring some friends when we have this discussion at the MFP Committee on--was it  
25 Monday?  
26 NANCY FLOREEN: Yes.  
27 DUCHY TRACHTENBERG  
28 And we invite everyone to attend.  
29 MICHAEL KNAPP: It should be fun.  
30 Okay.  
31 JOE BEACH: Bring lots of friends.  
32 MICHAEL KNAPP: Thank you, Mr. Beach.  
33 JOE BEACH: Thank you.  
34 MICHAEL KNAPP: I appreciate it.  
35 This concludes this public hearing.  
36 We now turn to agenda item 11.  
37 Good afternoon, ladies and gentlemen.  
38 This is a public hearing on the supplemental appropriation to the Montgomery College's  
39 FY '09 capital budget and amendment to the FY '09, 14 Capital Improvements Program,  
40 \$1, 500,000 for Takoma Park-Silver Spring West Campus garage, Phase Two.  
41 There are no speakers for this hearing.



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1 This is scheduled for both public hearing and action.  
2 NANCY FLOREEN: I move approval.  
3 DUCHY TRACHTENBERG: I second.  
4 MICHAEL KNAPP: Moved by Councilmember Floreen, seconded by Councilmember  
5 Trachtenberg.  
6 The Education Committee met earlier this week.  
7 I note that the chair is absent, but the committee recommended 3 to 0 to move this  
8 forward to the full Council.  
9 It did so we have before us action on the supplemental appropriation.  
10 Madam Clerk, if you would call the roll?  
11 Oh, we don't?  
12 Just--okay.  
13 All in support of the appropriation indicate by raising your hand?  
14 That is unanimous among those present.  
15 Thank you very much.  
16 We now turn to--this is a public hearing on the supplemental appropriation to the county  
17 government's FY '09 Capital Budget and amendment to the FY '09 14 Capital  
18 Improvement Program, Department of Transportation, or \$ 6,159,000 for Montrose  
19 Parkway West.  
20 There are no speakers for this hearing.  
21 The Transportation, Infrastructure, Energy and Environment Committee recommended  
22 approval.  
23 Is there a discussion on the supplemental appropriation?  
24 Seeing none, all in support or is there a motion?  
25 ROGER BERLINER: I move.  
26 NANCY FLOREEN: I second.  
27 MICHAEL KNAPP: Moved by Councilmember Berliner, seconded by Councilmember  
28 Floreen.  
29 All in--seeing it, any discussion?  
30 Seeing no discussion, all in support, indicate by raising your hand.  
31 That is unanimous.  
32 Okay.  
33 Thank you very much.  
34 This concludes the Council's action today.  
35 We stand--we'll stand and adjourn this.  
36 Just one moment.  
37 We have interviews for applicants for the Board of Appeals which will begin at 2:30 in the  
38 sixth floor conference room.  
39 I look forward to seeing everyone there.  
40 The council is now adjourned.  
41

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